

July 12, 2016

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

**Attention: Ms. Cheryl Blundon**  
**Director Corporate Services & Board Secretary**

**Dear Ms. Blundon:**

**Re: Approval of a Plan for the Rate Stabilization Plan ("RSP") Surplus to Customers**

Enclosed please find the original and 11 copies of an Application for approval of Hydro's RSP Surplus refund plan (the "Customer Refund Plan"). The Application requests approval of the Customer Refund Plan, which includes the following:

- i. that the Newfoundland Power RSP Surplus refund be paid to Newfoundland Power, and to those Hydro Island Interconnected Rural customers ("Hydro Rural Customers") whose rates are based on the rates charged by Newfoundland Power;
- ii. that the Newfoundland Power RSP Surplus refund be shared amongst Newfoundland Power and Hydro Rural Customers based on the method set out in the Customer Refund Plan; and
- iii. that Hydro's incremental costs of administering the Customer Refund Plan be recovered by Hydro from the RSP Surplus.

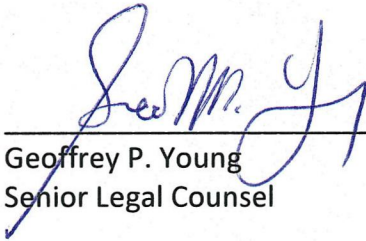
In Order No. P.U. 9(2014), the Board indicated it expected that Hydro, Newfoundland Power and the Consumer Advocate would work jointly to determine a reasonable and appropriate approach in relation to the refund of the RSP Surplus, consistent with the Orders in Council and file a consensus proposal with the Board for its consideration.

The enclosed Hydro Customer Refund Plan is based on a consensus proposal between Hydro, Newfoundland Power and the Consumer Advocate.

Should you have any questions, please contact the undersigned.

Yours truly,

**NEWFOUNDLAND AND LABRADOR HYDRO**



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Geoffrey P. Young  
Senior Legal Counsel

GPY/bs

cc: Gerard Hayes – Newfoundland Power

Thomas Johnson, Q.C. – Consumer Advocate

**IN THE MATTER OF** the *Electrical Power Control Act*, R.S.N.L. 1994, c. E-5.1 (the “EPCA”) and the *Public Utilities Act*, R.S.N.L. 1990, c. P-47 (the “Act”), and regulations thereunder;

**AND IN THE MATTER OF** an Application by Newfoundland and Labrador Hydro (“Hydro”) pursuant to Sections 70(1), 76 and 118 of the *Act*, for approval of the Rate Stabilization Plan (“RSP”) rules and a refund to be provided to Newfoundland Power Inc. customers and to Hydro Island Interconnected System Rural customers (“Hydro Rural Customers”).

**TO:** The Board of Commissioners of Public Utilities (the “Board”)

**THE APPLICATION OF HYDRO STATES THAT:**

1. Hydro is a corporation continued and existing under the *Hydro Corporation Act, 2007*, is a public utility within the meaning of the *Act* and is subject to the provisions of the *EPCA*.
2. On December 20, 2007, Hydro applied for an order to make rates to Island Industrial Customers (“IIC”) interim due to volatility arising from IIC load variations. On December 21, 2007, the Board issued Order No. P.U. 34(2007) approving interim IIC rates as requested in Hydro’s December 20, 2007 application.
3. On June 30, 2009, Hydro filed an application to the Board requesting approval, *inter alia*, that the existing IIC interim rates (except for the increase for Teck Cominco Limited) be made final. Hydro’s application did not contain any proposed changes to the RSP; rather, Hydro suggested the Board may wish to consider suspending the existing load variation allocation rules and holding current and future load variation amounts in

abeyance until such time as Hydro could develop a proposal to address the anomalies in the operation of RSP.

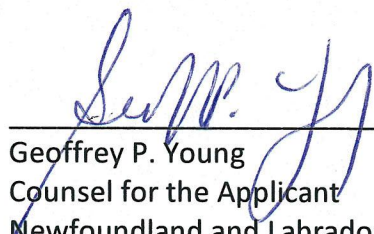
4. On August 26, 2010, the Board issued Order No. P.U. 25(2010) addressing preliminary questions of law and jurisdiction arising from Hydro's June 30, 2009 application. On June 19, 2012, that Order was reversed by the Newfoundland and Labrador Supreme Court (Court of Appeal) in *Newfoundland and Labrador Hydro v. Newfoundland and Labrador (Board of Commissioners of Public Utilities)*, 2012 NLCA 38.
5. On April 4, 2013, Government issued OC2013-089 which, as later amended by OC2013-207, directed the Board that on August 31, 2013, \$49 million would be drawn from the surplus in the Load Variation component of the RSP that accumulated between January 1, 2007 and August 31, 2013 and credited to the IIC Rate Stabilization Plan, with the remainder to be transferred to the credit of Newfoundland Power's Rate Stabilization Plan.
6. As directed in Board Order No. P.U. 26(2013), on August 31, 2013, Hydro credited \$49 million to the IIC Rate Stabilization Plan and transferred the remaining balance in the January 1, 2007 to August 31, 2013 accumulated Load Variation component of the Rate Stabilization Plan, including financing, to the credit of the Newfoundland Power Rate Stabilization Plan.
7. On October 31, 2013, Hydro, in compliance with OC2013-089, OC2013-091 and OC2013-207, filed an application to the Board requesting approval of a plan for refunding the Newfoundland Power portion of the RSP surplus to Newfoundland Power and to those rural customers of Hydro whose rates are based on the rates charged by Newfoundland Power.



8. On April 9, 2014, the Board issued P.U. 9(2014) addressing Hydro's RSP surplus refund plan and finding, in pertinent part, that the amount in Newfoundland Power's Rate Stabilization Plan should be refunded to Newfoundland Power customers and to customers on each of Hydro's systems: Rural Island Interconnected, Island Isolated, Labrador Isolated, L'Anse au Loup, and Labrador Interconnected. On May 6, 2015, in *The Consumer Advocate v. The Board of Commissioners of Public Utilities*, 2015 NLCA 24, this decision was reversed on appeal such that Newfoundland Power's RSP Surplus should be refunded to Newfoundland Power customers and to Hydro's Rural Island Grid Customers.
9. OC2013-089 issued by the Lieutenant Governor in Council on April 4, 2013, together with the amending OC2013-207 dated July 16, 2013, direct the Board as to the disposition of certain matters with respect to a RSP Surplus refund plan. Details and supporting information as to Hydro's proposal to bring about the disposition prescribed by the Orders in Council, and as clarified by the Court of Appeal as aforementioned, are included in the evidence filed with this application.
10. On June 30, 2016, Newfoundland Power filed with the Board its Customer Refund Plan (the "Newfoundland Power Refund Plan").
11. Hydro therefore proposes and makes application under the Act, and specifically under Sections 70(1), 76 and 118, for an Order approving the Newfoundland and Labrador Hydro RSP Surplus Customer Refund Plan (the "Customer Refund Plan"), attached as Exhibit 2 to the Evidence to Hydro's Application, which includes the following:
  - a. That the Newfoundland Power RSP Surplus refund be paid to Newfoundland Power, and to those Hydro Island Interconnected Rural customers whose rates are based on the rates charged by Newfoundland Power;

- b. That the Newfoundland Power RSP Surplus refund be shared amongst Newfoundland Power and Hydro Rural Customers based on the method set out in the Customer Refund Plan; and
- c. That Hydro's incremental costs of administering the Customer Refund Plan be recovered by Hydro from the Newfoundland Power RSP Surplus.

**DATED** at St. John's, in the Province of Newfoundland and Labrador, this 12<sup>th</sup> day of July, 2016.



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Geoffrey P. Young  
Counsel for the Applicant  
Newfoundland and Labrador Hydro  
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St. John's, NL A1B 4K7  
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**IN THE MATTER OF** the Electrical Power Control Act, R.S.N.L. 1994, c. E-5.1 (the "EPCA") and the Public Utilities Act, R.S.N.L. 1990, c. P-47 (the "Act"), and regulations thereunder;

**AND IN THE MATTER OF** an Application by Newfoundland and Labrador Hydro ("Hydro") pursuant to Sections 70(1), 76 and 118 of the Act, for approval of the Rate Stabilization Plan ("RSP") rules and a refund to be provided to Newfoundland Power Inc. customers and to Hydro Island Interconnected System Rural customers ("Hydro Rural Customers").

**AFFIDAVIT**

I, Kevin Fagan, of St. John's in the Province of Newfoundland and Labrador, make oath and say as follows:

1. I am Manager, Regulatory Affairs for Hydro, the Applicant named in the attached Application.
2. I have read and understand the foregoing Application.
3. I have personal knowledge of the facts contained therein, except where otherwise indicated, and they are true to the best of my knowledge, information and belief.

**SWORN** at St. John's in the )  
Province of Newfoundland and )  
Labrador this 12<sup>th</sup> day of July 2016, )  
before me: )

  
Barrister – Newfoundland and Labrador

  
Kevin J. Fagan

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**2016 RSP Surplus Refund**

**Evidence of  
Newfoundland and Labrador Hydro**

**July 12, 2016**

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1 **1.0 OVERVIEW**

2 **1.1 GENERAL**

3 On June 30, 2016, Newfoundland Power filed an application to the Board of Commissioners of  
4 Public Utilities of Newfoundland and Labrador (the "Board") for approval of a refund plan for  
5 disposition to Newfoundland Power's customers of the portion of the RSP Surplus to be  
6 refunded by Newfoundland and Labrador Hydro ("Hydro") to Newfoundland Power (the  
7 "Newfoundland Power Refund Application"). This evidence is provided in support of Hydro's  
8 Application for approval of a plan to refund the balance in the RSP Surplus to Newfoundland  
9 Power and Hydro's Island Interconnected Rural customers (the "Hydro Refund Application").

10  
11 The Newfoundland Power Refund Application proposes calculation of a refund rate on a ¢ per  
12 kWh basis which reflects the aggregate kWh sales to Newfoundland Power and Hydro's Island  
13 Interconnected Rural customers ("Hydro Rural Customers") for the period for which the RSP  
14 Surplus balance accumulated (January 1, 2007 to August 31, 2013, the "Refund Period"). As a  
15 result, the Newfoundland Power Refund Application sets forth the approach to determine the  
16 refund amount (excluding taxes) to all eligible retail customers on the Island Interconnected  
17 System, including Hydro's Rural Customers.

18  
19 Hydro's refund plan (the "Customer Refund Plan") presents the proposed approach to refund  
20 Newfoundland Power's allocated portion of the RSP Surplus to Newfoundland Power, in  
21 addition to Hydro's proposals related to the refund disposition to Hydro's Rural Customers.

1 **1.2 REFUND AMOUNT**

2 The Newfoundland Power Refund Application estimates approximately \$138.2 million to be  
3 available for refund to Newfoundland Power's customers and eligible Hydro Rural Customers,  
4 as at October 31, 2016.<sup>1</sup> This amount represents an estimated balance in the RSP Surplus of  
5 approximately \$141.7 million, less estimated utility refund administration costs of \$3.5 million.

6  
7 The RSP rules are currently approved on an interim basis. The projected balance reflected in the  
8 Newfoundland Power Refund Application reflects interest accumulating in the RSP for all of  
9 2015 and 10 months of 2016 based on the 2007 Test Year approved weighted average cost of  
10 capital ("WACC") of 7.53%. Hydro assumes the final 2013 GRA Order will require Hydro to  
11 revise the 2016 RSP balances, including the RSP Surplus balance, reflecting the impact in 2015  
12 and 2016 of using 2015 Test Year values.

13  
14 Given the 6.82% proposed WACC for Hydro's 2015 Test Year is lower than the 2007 Test Year  
15 WACC, Hydro anticipates the RSP Surplus amount for disposition should be reduced by  
16 approximately \$1.8 million to reflect a lower RSP Surplus interest amount.<sup>2</sup> If the lower  
17 accumulation of RSP Surplus interest is not reflected in the RSP Surplus to be refunded, Hydro  
18 would refund in excess of what is required under the RSP rules.

19  
20 Hydro has updated its incremental cost estimate for disposition of the RSP Surplus to  
21 approximately \$700,000. This is \$300,000 lower than the \$1 million estimated costs in the  
22 Newfoundland Power Refund Application.

23  
24 Revising the projected RSP Surplus balance for these two adjustments would result in a  
25 projected balance of \$136.74 million at October 31, 2016.

---

<sup>1</sup> In accordance with the rules governing Hydro's RSP, balances in favor of customers accrue interest until customers receive the benefit of the balance in reduced electricity rates. Because the surplus balance in Hydro's RSP is in favor of customers, it will continue to accrue interest until customers receive the benefit of the balance by way of credit or refund.

<sup>2</sup> The RSP Surplus interest for 2015 and 2016 is assumed to reflect the 2015 Test Year forecast WACC of 6.82%.

1 **1.3 REFUND RATES**

2 **1.3.1 Refund Rate to Hydro Rural Customers**

3 Hydro proposes that the refund rate that would apply to eligible Hydro Rural Customers would  
4 be set to equal the kWh refund rate ultimately approved by the Board to apply to customers of  
5 Newfoundland Power. This approach would result in all refund eligible customers on the Island  
6 Interconnected System being provided a refund on the same basis.

7

8 A forecast refund of \$136.74 million based on the aggregate kWh billed to the refund eligible  
9 customers of Newfoundland Power and Hydro during the Refund Period results in a forecast  
10 kWh refund rate of 0.360¢ per kWh to eligible retail customers (the "Retail Refund Rate").

11

12 **1.3.2 Refund Rate to Newfoundland Power**

13 The use of the Retail Refund Rate by Newfoundland Power applied to their sales over the  
14 Refund Period would result in a refund disposition by Newfoundland Power of \$127.55 million  
15 to its customers.

16

17 For Hydro to reimburse Newfoundland Power for the forecast RSP Surplus refund amount to be  
18 provided to Newfoundland Power's customers would require Hydro to apply a refund rate of  
19 0.370¢ per kWh to Newfoundland Power's purchases from Hydro for the Refund Period (the  
20 "Wholesale Refund Rate").

21

22 Exhibit 1 provides the derivation of the projected Wholesale Refund Rate to apply in  
23 determining the refund to Newfoundland Power. The estimates contained in Exhibit 1 provide  
24 a reasonable indication of values as of October 31, 2016. The actual amount to be refunded will  
25 be subject to the actual timing of refund payments and the actual RSP interest rate to apply for  
26 2015 and 2016. When more certainty exists on the timing of the refund disposition and after  
27 Newfoundland Power receives formal confirmation of the applicability of the Harmonized Sales  
28 Tax ("HST") to refunds paid to Newfoundland Power's customers as contemplated in the

1 Newfoundland Power Refund Application, Hydro proposes that an application be filed with the  
2 Board for approval of the final refund rates to apply in disposition of the RSP Surplus.

3

#### 4 **1.4 REFUND APPROACH**

5 Hydro's Customer Refund Plan is provided as Exhibit 2 and provides the proposed approach to  
6 refunding the RSP Surplus balance to the refund eligible customers of Newfoundland Power  
7 and Hydro.

8

9 Hydro supports Newfoundland Power's proposal that the Board approve the refund plan prior  
10 to the development of detailed operational protocols and procedures for administration of the  
11 refund plan. Hydro will work with Newfoundland Power to ensure consistency in the treatment  
12 of all eligible customers with respect to operational protocols and procedures for plan  
13 administration.

14

15 Implementation by Hydro of its Customer Refund Plan will require a material preparation effort  
16 in advance of the disbursement of any refunds. Hydro supports the timelines proposed by  
17 Newfoundland Power for provision of the initial refunds (i.e., within four to five months  
18 following Board approval of the refund plans)<sup>3</sup> and the refund availability period to provide for  
19 the location of eligible customers that no longer avail of service (i.e., 24 months following Board  
20 approval of the refund plans).

21

22 Hydro believes that it should neither benefit nor lose from the administration of a plan to  
23 refund the RSP Surplus. Consistent with the Newfoundland Power Refund Application, Hydro  
24 proposes to recover the incremental costs of administering its Customer Refund Plan.

---

<sup>3</sup> Hydro is concerned that there is a risk of delay in the RSP Surplus refund disposition as Newfoundland Power has indicated it has not yet requested formal confirmation of the applicability of the HST to refunds paid to Newfoundland Power's customers.

## 1 **2.0 CUSTOMER REFUND PLAN**

### 2 **2.1 Primary Plan Elements**

#### 3 **2.1.1 Eligibility**

4 Newfoundland Power, Hydro largest customer, is eligible for a refund.

5  
6 Hydro Rural Customers are eligible for a refund if (i) they paid the same rates as those approved  
7 for billing by Newfoundland Power and (ii) they were billed for electrical energy usage during  
8 the Refund Period.<sup>4</sup>

9

#### 10 **2.1.2 Refund Amount and Payment**

11 Hydro will pay Newfoundland Power a refund based on the Wholesale Refund Rate applied to  
12 the Newfoundland Power firm energy purchases for the Refund Period (the "Newfoundland  
13 Power Refund") and in accordance with Newfoundland Power's RSP Refund Plan as approved  
14 by the Board.

15

16 The refund amount for each eligible retail customer will be calculated by multiplying the  
17 electricity usage (in kWh), reflected on all electricity bills issued in the Refund Period, by the  
18 approved Retail Refund Rate.<sup>5</sup> The Retail Refund Rate will apply to both the eligible customers  
19 of Hydro and the eligible customers of Newfoundland Power. The refund for each customer  
20 will first be credited against any existing balance owing and the remainder paid by cheque to  
21 the customer.

22

#### 23 **2.1.3 Taxes**

24 On July 25, 2014, the Canada Revenue Agency (the "CRA") provided Hydro with an  
25 interpretation which indicated that the provision of refunds based on actual customer

---

<sup>4</sup> The Hydro Rural Rate 1.3 is not subject to RSP rate changes and therefore did not contribute to the RSP Surplus. Therefore, customers on preferential Rate 1.3 are not considered eligible for the RSP Surplus Refund. The Island Industrial customers are also not eligible for a refund; the Island Industrial customers are currently receiving the Industrial Customer RSP Surplus through lower customer rates.

<sup>5</sup> The preliminary estimate of the kWh Refund Rate is 0.360¢ per kWh. This is based on a forecast balance in the Newfoundland Power RSP Surplus at October 31, 2016.



1 consumption and billings during the Refund Period would permit Hydro to provide a refund or  
2 credit of HST previously charged to or paid by its customers. Based on the CRA interpretation,  
3 HST will be applicable to refunds paid by Hydro under the Customer Refund Plan.

4  
5 For Newfoundland Power, Hydro will be refunding HST amounts resulting from the provision of  
6 the Newfoundland Power Refund which is calculated based on the Wholesale Refund Rate  
7 applied to kWh purchases over the Refund Period.

8  
9 In 2011, the Provincial Government implemented a residential energy rebate (the "RER"). The  
10 RER provided a rebate to electricity customers that was equivalent to the 8% provincial  
11 component of the HST paid in relation to the electricity charges on their bills. For purposes of  
12 determining the refund, the RER was effective on all electricity bills issued for the period  
13 October 1, 2011 to August 31, 2013. In providing refunds to Hydro's Rural Customers, Hydro  
14 will have discussions with the Provincial Government on whether the tax refund will reflect the  
15 net of HST and RER for the period the RER was in effect.

16

## 17 **2.2 Communications with Customers**

18 Hydro will partner with Newfoundland Power in communications with customers. This  
19 approach is planned to minimize customer confusion that could result from advertising two  
20 refund plans. Partnering in customer communication efforts will also reduce advertising costs  
21 for plan administration.

22

23 Initial customer communications will target a general understanding of the refund process and  
24 anticipated timelines. Communications are expected to include bill inserts, electronic mail,  
25 website materials, social media and print advertising. Over time, the focus of customer  
26 communications will shift to former customers that are eligible for a refund but have not yet  
27 contacted Hydro or Newfoundland Power.

1 It is expected the refund plans will close approximately 24 months after Board approval. Before  
2 Hydro closes its Customer Refund Plan, Hydro will partner with Newfoundland Power in  
3 providing public notice.

4

### 5 **2.3 Recovery of Plan Administration Costs**

6 In administering the Plan, Hydro will incur costs incremental to its normal operating costs.  
7 These one-time incremental costs will include such items as customer service, banking,  
8 advertising, information technology and project management costs.

9

10 The estimated incremental Hydro costs to administer its Customer Refund Plan and estimated  
11 Board related costs are shown in Exhibit 3. The one-time costs of administering the Customer  
12 Refund Plan would not be recovered through Hydro's customer rates. Accordingly, it is  
13 reasonable that provision be made to permit Hydro to recover the actual incremental costs of  
14 administering its Customer Refund Plan.

15

### 16 **2.4 Drawdown of RSP Surplus**

17 The RSP Surplus balance will be reduced as the RSP Surplus funds are dispersed to customers.

18

19 Hydro will provide the Board with a report at the end of each fiscal quarter indicating its  
20 incremental costs incurred in administering its Customer Refund Plan. Hydro will transfer the  
21 funds to recover its incremental costs of administration from the RSP Surplus 30 days from  
22 filing the report with Board.

23

24 Any remaining balance in the RSP Surplus will continue to have interest applied. At the  
25 termination of the refund plans for Hydro and Newfoundland Power, the balance in the RSP  
26 Surplus will be transferred to the current balance in the RSP.

**Exhibit 1**  
**Derivation of Forecast**  
**Wholesale Refund Rate to Newfoundland Power**

1 Forecast Newfoundland Power RSP Surplus as at October 31, 2016 <sup>1</sup>	\$ 139,951,242		
2 Estimated Incremental Cost to process Refund <sup>2</sup>	3,212,000		
3 Net Refund	<u>\$ 136,739,242</u>		(Line 1 - Line 2)
4 Island Interconnected Customer retail sales for the Refund Period:			
5 Newfoundland Power	35,430,721,000		
6 Hydro Rural Island Interconnected	<u>2,586,978,607</u>		
7 Total kWh billed during the Refund Period <sup>3</sup>	38,017,699,607	kWh	(Line 5 + Line 6)
8 Retail Refund Rate for Hydro Rural and Newfoundland Power Customers	0.360	¢/kWh	(Line 3/Line 7)
9 Forecast Customer Refund by Newfoundland Power	\$ 127,550,596		(Line 5 x Line 8)
10 Newfoundland Power Purchases from Hydro during Refund Period	34,428,864,909	kWh	
11 Forecast Wholesale Refund Rate from Hydro to Newfoundland Power	0.370	¢/kWh	(Line 9/Line 10)

**NOTES:**

<sup>1</sup> Estimated October 31, 2016 balance of the Newfoundland Power RSP Surplus.

<sup>2</sup> Assumes incremental costs of \$2.5 million for Newfoundland Power and \$0.7 million for Hydro.

<sup>3</sup> Island Interconnected Customer Sales to eligible Customers (January 1, 2007 to August 31, 2013).

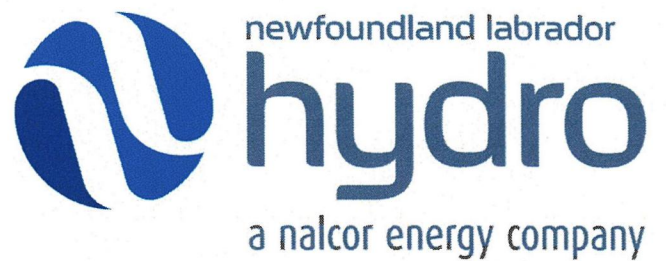
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**NEWFOUNDLAND AND LABRADOR HYDRO RSP SURPLUS:**

**CUSTOMER REFUND PLAN**

**July 12, 2016**

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## SECTION 1 INTERPRETATION

### 1.1 Definition

In this Newfoundland and Labrador Hydro RSP Surplus Customer Refund Plan, the following definitions shall apply:

- (a) "Act" means *The Public Utilities Act*, RSNL 1990, c. P-47, as amended.
- (b) "Board" means the Board of Commissioners of Public Utilities of Newfoundland and Labrador.
- (c) "Customer" means any person, corporation, or organization on the Island Interconnected System (excluding Island Industrial Customers) that accepted or agreed to accept the contract for Service from Hydro, including Newfoundland Power.
- (d) "Customer Refund Plan" means this Newfoundland and Labrador Hydro RSP Surplus Customer Refund Plan.
- (e) "Designated Account" means an account of Newfoundland Power maintained at a bank in the City of St. John's for the purposes of providing Refunds to Newfoundland Power under this Customer Refund Plan.
- (f) "HST" means harmonized sales tax levied under the *Excise Tax Act (Canada)*.
- (g) "Hydro" means The Newfoundland and Labrador Hydro-Electric Corporation continued pursuant to the *Hydro Corporation Act*, 2007, SNL 2007, c. H-17 as amended.
- (h) "Hydro Rural Customer" means a Hydro Rural Island Interconnected customer.

- (i) "Hydro Rural Customer Refund" means an amount payable to eligible Hydro Rural Customers pursuant to the Customer Refund Plan calculated in accordance with Section 2.2.
- (j) "Newfoundland Power" means Newfoundland Power Inc.
- (k) "Newfoundland Power Refund" means an amount payable to Newfoundland Power pursuant to the Customer Refund Plan calculated in accordance with Section 2.2.
- (l) "Refunds" means collectively the Hydro Rural Customer Refund and the Newfoundland Power Refund.
- (m) "RSP Surplus" means the Newfoundland Power allocated amount of the RSP surplus as provided for in Section F of the Hydro RSP Rules as approved by the Board.
- (n) "Refund Period" means the period from January 1, 2007 to August 31, 2013.
- (o) "Release Date" means a day or dates upon which Refunds are released for disposition.
- (p) "RER Program" means the Residential Energy Rebate program established by *Newfoundland and Labrador Regulation 47/12*.
- (q) "RSP" means Hydro's Rate Stabilization Plan as approved by the Board.
- (r) "Service" means electrical service provided by Hydro under rules and regulations approved by the Board pursuant to the Act.
- (s) "Taxes" means HST on the Refunds, less any applicable rebated amounts under the RER Program.

## **1.2 Interpretation**

- (a) Unless the context clearly requires otherwise, this Customer Refund Plan shall be interpreted such that:
  - (i) words importing persons include corporations and organizations; and
  - (ii) words importing the singular include the plural and *vice versa*.
  
- (b) The Customer Refund Plan shall be interpreted in a manner consistent with the Rules and Regulations governing Hydro's provision of electrical service as approved by the Board.
  
- (c) Any dispute concerning the interpretation of this Customer Refund Plan shall be determined:
  - (i) in the first instance, by Hydro, acting reasonably; and
  - (ii) if required, by the Board whose decision shall be considered final.

## **SECTION 2 CUSTOMER REFUND ELIGIBILITY**

### **2.1 Customers Entitled to Refund**

- (a) Newfoundland Power is eligible for the Newfoundland Power Refund.
  
- (b) A Hydro Rural Customer is eligible for a Hydro Rural Customer Refund if that Customer
  - (i) paid the same rates as those approved for billing by Newfoundland Power and (ii) was billed for electrical energy usage during the Refund Period.
  
- (c) Customers on Hydro Rural Rate 1.3 are not eligible for the Hydro Rural Customer Refund.

## **2.2 Determining the Refund Amount**

- (a) The Hydro Rural Customer Refund shall be calculated in accordance with Schedule 1 to the Newfoundland Power Customer Refund Plan.
- (b) The Newfoundland Power Refund shall be calculated in accordance with Schedule 1 to Hydro's Customer Refund Plan.

## **2.3 Taxes**

Taxes on the Refund that were billed to the Customer for Service will be provided in addition to the Refund.

## **2.4 Informing Customers of the Plan**

- (a) Hydro shall take reasonable steps to inform Customers of the terms of the Customer Refund Plan and their entitlement to receive Refunds thereunder.
- (b) For Customers who are no longer receiving electrical service from Hydro, reasonable notice of the terms of the Customer Refund Plan may include, amongst other things, public advertisements throughout Canada.

## **2.5 Proof of Eligibility**

- (a) Hydro shall be entitled to request a Customer provide reasonable proof of that Customer's eligibility to receive a Refund under the Customer Refund Plan.
- (b) Where Hydro has requested a Customer provide reasonable proof of that Customer's eligibility to receive a Refund under the Customer Refund Plan, such Customer shall not be entitled to a Refund (or associated Taxes) until provision of such reasonable proof.

- (c) Should a Customer be delayed in the provision of reasonable proof of that Customer's eligibility to receive a Refund under the Customer Refund Plan, that Customer shall not be entitled to receive interest on a Refund for the period of delay.

## **2.6 Special Cases**

For Customers entitled to a Refund under the terms of the Customer Refund Plan that have died, have become legally incapacitated, or are bankrupt, Hydro shall be entitled to pay the Refund to the Customer's estate, legal representative or trustee as appropriate. Payment of the Refund (and associated Taxes) to such an estate, legal representative, or trustee, as the case may be, shall be conclusively considered to be payment of the Refund (and associated Taxes) to the Customer.

## **SECTION 3 REFUND TO HYDRO RURAL CUSTOMERS**

### **3.1 Determination of Release Date**

Hydro and Newfoundland Power shall agree from time to time on a Release Date for payment of Refunds (and associated Taxes) to Customers.

### **3.2 Credit to Existing Balance**

Hydro will be entitled to credit the Refund (and associated Taxes) to which a Customer is entitled under the Customer Refund Plan against an existing balance owing by that Customer to Hydro.

### **3.3 Payments by Cheque**

Any Refund and Taxes, or portion of a Refund (and associated Taxes) remaining following the issuance of a credit against an existing balance owing under Section 3.2, will be paid by cheque issued within three business days of the Release Date, to the Customer entitled thereto.

### **3.4 Other Forms of Payment**

Hydro may agree with its Customers to other forms of payment of a Refund (and associated Taxes), where practicable.



## **SECTION 4 REFUND TO NEWFOUNDLAND POWER**

### **4.1 Refund Amount to Newfoundland Power**

Hydro will refund from the RSP Surplus to Newfoundland Power an amount specified by Newfoundland Power pursuant to Newfoundland Power's RSP Refund Plan as approved by the Board.

### **4.2 Taxes on Refund**

In addition to the transfer of funds from the RSP Surplus to Newfoundland Power made under Section 4.1, Hydro shall also transfer an amount from an account outside of the RSP to Newfoundland Power to provide a refund of the appropriate Taxes with respect to the RSP Surplus that were paid by Newfoundland Power to Hydro through monthly billings during the Refund Period.

## **SECTION 5 PLAN ADMINISTRATION**

### **5.1 Plan Costs**

The Customer Refund Plan has been created to disburse amounts due to Customers as directed by Orders in Council. Both Refunds payable to Customers under the Customer Refund Plan and the costs incurred to administer the Customer Refund Plan shall be funded by amounts in the RSP Surplus.

### **5.2 Recovery of Plan Administration Costs**

- (a) Hydro shall be entitled to recover its reasonable costs of administering the Customer Refund Plan from the RSP Surplus.
- (b) Hydro will provide the Board with a report at the end of each fiscal quarter indicating its incremental costs incurred in administering the Customer Refund Plan.

- (c) Hydro will transfer the funds to recover its incremental costs of administration from the RSP Surplus 30 days from filing the report with Board.
- (d) Hydro will transfer funds to Newfoundland Power to recover plan administration costs as set out in Section 5.2 of Newfoundland Power's Customer Refund Plan

### **5.3 Liability**

Hydro shall not be liable to any party for any reason whatsoever associated with the good faith administration of the Customer Refund Plan.

**SCHEDULE 1**

**CALCULATION OF THE NEWFOUNDLAND POWER REFUND**

1. The Newfoundland Power Refund will be calculated by multiplying (i) the kWh Refund Rate in the Newfoundland Power Customer Refund Plan by (ii) the Newfoundland Power kWh sales to its customers during the Refund Period. The Newfoundland Power Refund (expressed in dollars to the nearest \$0.01) shall be calculated as follows:

$$A \times B = C$$

Where:

A = the kWh Refund Rate in the Newfoundland Power Customer Refund Plan.

B = the Newfoundland Power kWh sales to its customers during the Refund Period.

C = the Newfoundland Power Refund.

2. The Wholesale Refund Rate (expressed in cents per kWh and calculated to the nearest 0.001) shall be calculated as follows:

$$C / D = E$$

Where:

D = the total firm energy (in kWh) purchased by Newfoundland Power from Hydro during the Refund Period.

E = the Wholesale Refund Rate.

### Exhibit 3

#### Hydro's Estimated Incremental Plan Administration Costs

Customer Service Costs	\$268,000
Banking <sup>1</sup>	\$135,000
Advertising <sup>2</sup>	\$8,000
Information Technology Modifications	\$67,000
Miscellaneous <sup>3</sup>	\$184,000
<b>SUBTOTAL</b>	<b>\$662,000</b>
<b>Board related fees</b>	<b>\$20,000</b>
<b>Board audit fees</b>	<b>\$30,000</b>
<b>TOTAL</b>	<b>\$712,000</b>

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<sup>1</sup> Includes banking fees and cheque production as well as financing costs associated with HST refunds (not included in the RSP to be financed by Hydro).

<sup>2</sup> Hydro costs only. Joint costs are noted in Newfoundland Power's application. Allocation of those costs as between utilities to be determined.

<sup>3</sup> Including incremental costs incurred to date, tax related research, and professional services fees (project management/legal).