

February 22, 2018

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

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

Dear Ms. Blundon:

**Re: Newfoundland and Labrador Hydro 2018 Capital Budget Application**  
**Revised Information Pursuant to Board Order P.U. 43(2017)**  
**Requests for Intervenor Status**

**Background**

Newfoundland and Labrador Hydro ("Hydro") filed its 2018 Capital Budget Application (the "Application") with the Board of Commissioners of Public Utilities (the "Board") on July 28, 2017 seeking approval under Section 41 of the Public Utilities Act (the "Act") of its proposed capital expenditures for 2018. Hydro subsequently made several revisions to, and withdrew one project from its Application.

The Board issued order P.U. 43(2017) on December 22, 2017 approving the Application with the exception of the Muskrat Falls to Happy Valley Interconnection Project and the Hydraulic Generation Refurbishment and Modernization Project (the "Projects"), on which the Board requested Hydro file additional information – in effect deferring the Board's decision on these Projects. Hydro filed the revised information requested by the Board pursuant to Order P.U. 43(2017) on January 29, 2018. Pursuant to the schedule set by the Board for comments from parties on the revised information filed by Hydro, comments were received from Newfoundland Power on February 16, 2018 indicating that Newfoundland Power, based on the additional information filed by Hydro, was of the opinion that the Projects should be approved. No other comments from registered intervenors were received. Also on February 16, 2018, applications for intervenor status were received from Iron Ore Company of Canada ("IOC") and the Labrador Interconnected Group. Both applications for intervenor status also contained substantive commentary and concerns regarding the Projects, in particular the Muskrat Falls to Happy Valley Interconnection Project, which had not previously been expressed during the Board established process.

**Hydro's Comment on Intervenor Status Sought**

Hydro notes that the Projects were both contained in the Application filed approximately seven (7) months ago with the Board. Following the filing of the Application by Hydro, the following schedule was set by the Board on August 23, 2017:

***Newfoundland and Labrador Hydro  
2018 Capital Budget Application Schedule\****

***July 2017***

*July 28 (Friday) Application Received*

***August 2017***

*August 12(Saturday) Notice Published*

*August 23(Wednesday) Intervenor Submissions*

***September 2017***

*September 6(Wednesday) RFI's to be submitted  
Request for Technical Conference  
Notice of Intervenor Evidence*

*September 27(Wednesday) Replies to RFI's*

*September 29(Friday) Letters of Comment*

***October 2017***

*October 6(Friday) Written Submissions from Intervenors*

*October 13(Friday) Written Submission from Hydro*

*\*Adjustment to the schedule will be made if Intervenor Evidence is submitted or a Technical Conference or Hearing is required*

In that same correspondence from the Board on August 23, 2017 advising the parties of the schedule, the Board indicated that it had received Intervenor Submissions from Newfoundland Power, the Consumer Advocate and the Island Industrial Customers Group in relation to the Application. Neither IOC nor the Labrador Interconnected Group requested intervenor status in the Application, nor made any comments whatsoever thereon.

To grant these parties intervenor status now would render meaningless the schedule set by the Board for dealing with this matter. A party that has standing before the Board has the right to know, with certainty, the issues that it will be required to address as part of a proceeding and the timeframe in which that process will occur. This is a basic element of procedural fairness that underpins all proceedings before the Board and failing which, Hydro submits, those proceedings could not be conducted in any organized or efficient manner.

Hydro would also like to point out that under the Capital Budget Guidelines established by the Board, annual capital budget applications are timed in such a way so that they may be filed, debated and disposed of, all on a schedule that allows for proper and timely planning, engineering and procurement related to those capital projects that the Board approves for the following year. Again, Hydro notes that we are now approximately seven (7) months since the filing of the Application, which included the Projects that are currently and newly being contested. Hydro considers these Projects critical in terms of reliability for customers and while the timelines for construction and timely completion in 2018 are not yet at risk, that point is rapidly approaching and should it be missed, the effects will be felt by customers in the 2018-2019 winter season. Allowing new parties at this stage of the proceedings puts these Projects' schedules in jeopardy.

Finally, Hydro would like point out that much of the substantive objection raised now by IOC and the Labrador Interconnected Group relates to rates impacts which these intended intervenors may raise in Hydro's present GRA as they are both accepted intervenors in that proceeding.

### **Conclusion**

Hydro submits that based on the foregoing, the applications of IOC and the Labrador Interconnected Group for intervenor status in Hydro's 2018 Capital Budget Application should be denied. Hydro again points out that the Projects are not new and have been on the record since the filing of the Application on July 28, 2017, and that IOC and the Labrador Interconnected Group were provided with all the same opportunity to intervene as the other accepted intervenors. Hydro complied with Order P.U. 43(2017) and on January 29, 2018 filed the revised information requested by the Board. Hydro submits that based on that revised information and the support received from Newfoundland Power in its comments thereon; the Board has ample information and evidence on which to approve the Projects.

Hydro further respectfully submits that the issues raised by IOC and the Labrador Interconnected Group are already dealt with and addressed by Hydro, on the record, either as part of the original Application or the revised information filed regarding those Projects. These proposed interventions raise no new issues for the Board to consider.

Hydro was preparing a final reply regarding the revised information filed summarizing and explaining these critical projects, the date for which filing the reply was interrupted by these requests for intervenor status. If so directed by the Board, in the interest of obtaining a timely decision in this matter, Hydro could address the issues raised by the intended intervenors within its final reply.

Should you have any questions, please contact the undersigned.

Yours truly,

**NEWFOUNDLAND AND LABRADOR HYDRO**



Michael Ladha  
Legal Counsel & Assistant Corporate Secretary  
MSL/skc

cc: Gerard Hayes – Newfoundland Power  
Paul Coxworthy – Stewart McKelvey  
Dean Porter – Poole Althouse

ecc: Senwung Luk – Olthuis Kleer Townshend LLP

Dennis Browne, Q.C. – Browne Fitzgerald Morgan & Avis  
Denis J. Fleming – Cox & Palmer

Benoît Pepin – Rio Tinto