

November 20, 2018

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 of Corporate Services & Board Secretary

Dear Ms. Blundon:

Re: Application of Newfoundland and Labrador Hydro ("Hydro") for Approval of Deferral of All Costs, Expenditures, and Payments Incurred by Hydro for use of the Labrador-Island Link ("LIL") and Labrador Transmission Assets ("LTA") Prior to Full Commissioning of the Muskrat Falls Project, as Directed in OC2018-213 ("Muskrat Falls Cost Deferral Application").

Please find enclosed the original and eight (8) copies of the Application, affidavit and draft order, filed for the Board's approval under section 70(1) of the *Public Utilities Act*.

Background

On October 26, 2018, Hydro filed a 2018 Cost Deferral and Interim Rates Application in which it requested, in part, approval for the deferral of the operating and maintenance ("O&M") costs of the LIL and the LTA through placement into the Revised Energy Supply Cost Variance Deferral Account.

Hydro then reviewed Order in Council OC2018-213, received on November 1, 2018, which directed the Board to adopt a policy that the costs, expenditures and payments incurred by Hydro under the Interim Transmission Funding Agreements ("TFAs") be placed into a deferral account upon application by Hydro. Disposition of the deferral account would be addressed by the Board following a further application by Hydro. The costs incurred by Hydro under the Interim TFAs include the O&M costs referenced in the 2018 Cost Deferral and Interim Rates Application, as well as the Interim Financing Costs also detailed under the Interim TFAs. These include all costs and expenses incurred related to the Financing of the LIL and the LTA during the Interim TFA Term.

Hydro believed an application that is specific to the disposition of only those costs, expenditures and payments that are the subject of OC2018-213 would provide the most clarity for the Board and other parties. On November 14, 2018, Hydro filed Revision 2 to its 2018 Cost

Deferral and Interim Rates Application. The request for approval of the deferral of the O&M costs was removed from that application. The enclosed application requests approval of a deferral account as defined in Schedule 2 to the application.

In accordance with OC2018-213, Hydro will make a further application for disposition of the deferral account upon commissioning of the Muskrat Falls Project.

Please contact the undersigned should you have any questions.

Yours truly,

NEWFOUNDLAND AND LABRADOR HYDRO



Shirley A. Walsh
Senior Legal Counsel – Regulatory
SW/kd

cc: Gerard Hayes – Newfoundland Power
Paul Coxworthy – Stewart McKelvey
ecc: Dean Porter – Poole Althouse
Van Alexopoulos – Iron Ore Company
Senwung Luk – Olthuis Kleer Townshend LLP

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

Denis J. Fleming – Cox & Palmer
Benoît Pepin – Rio Tinto

IN THE MATTER OF the *Electrical Power Control Act, 1994*, SNL 1994, Chapter E-5.1 and the *Public Utilities Act*, RSNL 1990, Chapter P-47 (the Act);

AND IN THE MATTER OF a General Rate Application by Newfoundland and Labrador Hydro (“Hydro”) filed on July 28, 2017, as revised;

AND IN THE MATTER OF an application by Hydro for approval of deferral of all costs expenditures and payments incurred by Hydro for use of the Labrador-Island Link (“LIL”) and Labrador Transmission Assets (“LTA”) prior to full commissioning of the Muskrat Falls Project, as directed in OC2018-213

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

The Application of Hydro states that:

A. Background

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 *Electrical Power Control Act, 1994*.
2. Under the *Act*, the Board has the general supervision of public utilities and requires that a public utility submit for the approval of the Board the rates, tolls, and charges for the service provided by the public utility and the rules and regulations which relate to that service.

3. Section 70 of the *Act* provides that a public utility shall not charge, demand, collect, or receive compensation for a service performed by it until the Board has approved a schedule of rates, tolls, and charges for the services provided by the public utility.

B. Interim Transmission Funding Agreements

4. On August 31, 2018, Hydro submitted an information filing on its interim Transmission Funding Agreements (“interim TFAs”) with the Labrador-Island Link Limited Partnership and Labrador Transmission Corporation (the asset owners of LIL and LTA). Hydro entered into the interim TFAs to enable it to use the LIL and LTA to reduce energy generation costs for customers of the Island Interconnected System.
5. The interim TFAs require Hydro to reimburse the asset owners for their actual O&M costs which arise as a result of the assets being made available for service earlier than would otherwise be required (i.e., the LIL monopole commissioning date).
6. The interim TFAs also require Hydro, upon approval by the Board of the establishment of a deferral account, to accrue for later payment the Interim Financing Costs. These include all costs and expenses incurred related to the financing of the LIL and the LTA during the Interim TFA Term.
7. The O&M costs are payable, and the Interim Financing Costs become accruable for later payment, as of the LIL monopole commissioning date and the Interim TFAs terminate upon the Commissioning Dates defined therein.

C. Order in Council OC2018-213

8. Under the authority of the *Electrical Power Control Act, 1994*, the Lieutenant Governor in Council, in Order in Council OC2018-213 attached as Schedule 1, directed that upon an application by Hydro the Board adopt a policy that the costs incurred by Hydro under the Interim TFAs be placed into a deferral account. The Order in Council further states that disposition of the deferral account is to be addressed by the Board following a further application by Hydro in that regard.
9. A proposed deferral account definition for Muskrat Falls Pre-Commissioning Costs is attached as Schedule 2.

E. Application Requests

10. Therefore, Hydro requests that the Board approve the deferral account as defined in Schedule 2 herein.

DATED AT St. John's in the Province of Newfoundland and Labrador this 20th day of November 2018.

NEWFOUNDLAND AND LABRADOR HYDRO



Shirley Walsh
Counsel for the Applicant
Newfoundland and Labrador Hydro
500 Columbus Drive, P.O. Box 12400
St. John's, NL A1B 4K7
Telephone: (709) 737-1365
Facsimile: (709) 737-1782

2018/10/25

OC2018-213

MC2018-0367. NR2018-020. FIN2018-022. EPC2018-060.

Under the authority of section 5.1 of the Electrical Power Control Act, 1994, the Lieutenant-Governor in Council hereby directs:

- 1) The Board of Commissioners of Public Utilities, upon application from Newfoundland and Labrador Hydro-Electric Corporation, to adopt a policy that the following be placed into a deferral account with disposition of the deferral account to be addressed following further application by Newfoundland and Labrador Hydro-Electric Corporation:
 - a) All costs, expenditures, and payments incurred by Newfoundland and Labrador Hydro-Electric Corporation in connection with the arrangement between Newfoundland and Labrador Hydro-Electric Corporation and Labrador-Island Link Limited Partnership for the term of the Interim Transmission Funding Agreement for use of the Labrador-Island Link; and
 - b) All costs, expenditures, and payments incurred by Newfoundland and Labrador Hydro-Electric Corporation in connection with the arrangement between Newfoundland and Labrador Hydro-Electric Corporation and Labrador Transmission Corporation for the term of the Interim Transmission Funding Agreement for use of the Labrador Transmission Assets; and
- 2) In this Order in Council, terms shall have the same meaning ascribed to them in the Muskrat Falls Project Exemption Order.

File

Clerk of the Executive Council

**Muskkrat Falls Pre-Commissioning Costs
Deferral Account Definition**

This account shall be charged with all costs, expenditures, and payments incurred by Newfoundland and Hydro under the interim Transmission Funding Agreements associated with the Labrador Transmission Assets and the Labrador Island Link.

Disposition

Disposition of any balance in this account shall be subject to a future order of the Board.

IN THE MATTER OF the *Electrical Power Control Act, 1994*, SNL 1994, Chapter E-5.1 and the *Public Utilities Act*, RSNL 1990, Chapter P-47 (the Act);

AND IN THE MATTER OF a General Rate Application by Newfoundland and Labrador Hydro (“Hydro”) filed on July 28, 2017, as revised;

AND IN THE MATTER OF an application by Hydro for approval of deferral of all costs expenditures and payments incurred by Hydro for use of the Labrador-Island Link (“LIL”) and Labrador Transmission Assets (“LTA”) prior to full commissioning of the Muskrat Falls Project, as directed in OC2018-213.

AFFIDAVIT

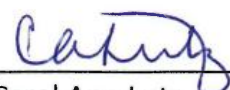
I, Carol Ann Lutz, of St. John’s in the Province of Newfoundland and Labrador, make oath and say as follows:

1. I am Division Controller, Newfoundland and Labrador 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 20 day of)
November 2018, before me:)



Barrister – Newfoundland and Labrador



Carol Ann Lutz

(DRAFT ORDER)
NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

AN ORDER OF THE BOARD

NO. P.U. __ (2018)

1 **IN THE MATTER OF** the *Electrical Power*
2 *Control Act*, RSNL 1994, Chapter E-5.1 (the
3 *EPCA*) and the *Public Utilities Act*, RSNL 1990,
4 Chapter P-47 (the *Act*) and regulations thereunder;
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6 **AND IN THE MATTER OF** a General Rate
7 Application by Newfoundland and Labrador Hydro
8 (“Hydro”) filed on July 28, 2017, as revised;
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10 **AND IN THE MATTER OF** an application by
11 Hydro for approval of deferral of all costs
12 expenditures and payments incurred by Hydro for
13 use of the Labrador-Island Link (“LIL”) and
14 Labrador Transmission Assets (“LTA”) prior to full
15 commissioning of the Muskrat Falls Project, as
16 directed in OC2018-213
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18 **WHEREAS** Newfoundland and Labrador (“Hydro”) is a corporation continued and
19 existing under the *Hydro Corporation Act, 2007*, is a public utility within the meaning of
20 the *Act*, and is subject to the provisions of the *EPCA*; and
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22 **WHEREAS** Hydro the Labrador-Island Link Limited Partnership and Labrador Transmission
23 Corporation are parties its interim Transmission Funding Agreements whereby Hydro is enabled
24 to use the Labrador Island Link and the Labrador Transmission Assets prior to full
25 commissioning of the Muskrat Falls Project; and
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27 **WHEREAS** the interim Transmission Funding Agreements require Hydro to reimburse the
28 Labrador-Island Link Limited Partnership and Labrador Transmission Corporation for their
29 actual O&M costs which arise as a result of the assets being made available for service earlier
30 than would otherwise be required; and
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32 **WHEREAS** the interim Transmission Funding Agreements also require Hydro, upon approval
33 by the Board of Commissioners of Public Utilities (“the Board”) of the establishment of a
34 deferral account, to accrue for later payment the Interim Financing Costs, which includes all
35 costs and expenses incurred related to the Financing of the Labrador Island Link and the
36 Labrador Transmission Assets during the Interim Transmission Funding Agreements Term; and

1 **WHEREAS** Hydro has applied for approval of proposed deferral account definition for Muskrat
2 Falls Pre-Commissioning Costs;

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4 **IT IS THEREFORE ORDERED THAT:**

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6 1. The deferral account definition proposed by Hydro in Schedule 2 to its application is
7 approved;
- 8 2. The disposition of the deferral account is subject to determination by the Board upon
9 further application by Hydro;
- 10 3. Hydro shall pay all expenses of the Board arising from this Application.

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15 **DATED** at St. John's, Newfoundland and Labrador, this __ day of _____, ____.

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