

1 Q. **Reference: Application**

2 Amendments to the *Public Utilities Act* (the “Act”) became effective in May 2023. Regarding  
3 section 41 of the *Act*, the amendments provide that a utility shall not proceed with any  
4 improvement or addition to its property where the cost exceeds \$750,000 without prior  
5 approval of the Board.

6 a) Please provide Hydro’s interpretation of this change in legislation. Specifically, can  
7 Hydro proceed with any project that costs less than \$750,000 without first gaining Board  
8 approval, and is pass-through of the cost of such projects to customers guaranteed  
9 whether or not the project is shown to be prudent? How will the prudence of such  
10 projects be audited? Will Board approval be required for such spending to be included  
11 in rate base?

12 b) How will the \$750,000 threshold be applied; e.g., to individual projects, projects that are  
13 a component of a larger program, or projects that might be a component of a larger  
14 project such as replacement of a faulty breaker at a substation that is undergoing  
15 refurbishment?

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18 A. a) As noted above, section 41(3) of the *Public Utilities Act*<sup>1</sup> is clear in its direction that a public  
19 utility shall not proceed with the construction, purchase or lease of improvements or  
20 additions to its property without the prior approval of the Board of Commissioners of Public  
21 Utilities (“Board”) where the cost of the construction or purchase is in excess of the amount  
22 prescribed in the regulations; or the cost of the lease over the expected life of the lease is in  
23 excess of the amount prescribed in the regulations. The inverse of that section then is that if  
24 the costs of the construction or purchase is less than the prescribed amount, the utility can  
25 proceed without prior approval of the Board. That provision does not speak to whether  
26 those costs can be recovered from customers; whether or not costs can be recovered is  
27 determined by the Board when the utility submits its rate base for approval. Although the

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<sup>1</sup> *Public Utilities Act*, RSNL 1990, c P-47, s. 41(3).

1 utility does not need prior approval of the expenditure, the Board retains all oversight and  
2 the ability to make inquiries to determine whether the expenditures should be approved  
3 and added to rate base as it has with expenditures that require prior approval.

4 **b)** Newfoundland and Labrador Hydro (“Hydro”) believes that the threshold applies to  
5 individual projects, or to general programs that may consist of a number of projects that are  
6 also less than the threshold. For example, Hydro’s “Purchase Meters and Metering  
7 Equipment” program has an estimated budget of \$470,700 and is considered to fall below  
8 the threshold requiring prior approval. Similarly, the “Upgrade SCADA Network” project is  
9 also considered to fall below the threshold requiring prior approval. A full list of the projects  
10 and programs Hydro intends for 2024 is contained in Schedule 6 to Hydro’s 2024 Capital  
11 Budget Application.<sup>2</sup>

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<sup>2</sup> “2024 Capital Budget Application,” Newfoundland and Labrador Hydro, rev. August 18, 2023 (originally filed July 12, 2023), sch. 6.