

1 Q. Schedule 1, Page ii, lines 9-11. The Application states that "... a 455 kW unit would provide  
2 sufficient firm capacity to meet Hydro's current load forecast...." On page 12, Hydro  
3 acknowledges that Alternative 3a is the least cost option but states at lines 17-18 that  
4 "Alternative 3b is the preferred alternative when balancing cost with reliable service". What  
5 jurisdiction does the Board have to approve an alternative that is not the least cost option?

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8 A. Section 3 of the *Electrical Power Control Act, 1994* ("EPCA"), which contains the power policy of  
9 the province, has provisions that emphasize the interests of the utility,<sup>1</sup> and those that are  
10 relevant to the interests of customers.<sup>2</sup> The Board of Commissioners of Public Utilities ("Board"),  
11 as noted by Justice Green in *Newfoundland (Board of Commissioners of Public*  
12 *Utilities)(Re)(1998)*, 64 NFLD. & PEI R.60 (NFLD.C.A.), is generally charged with balancing these  
13 competing interests and ensuring that both ends are met without unduly inconveniencing, or  
14 alternatively, favoring the other.

15 Section 3(b)(iii) of the *EPCA* states that:

16 . . . all sources and facilities for the production, transmission and distribution of  
17 power in the province should be managed and operated in a manner . . . that  
18 would result in power being delivered to consumers in the province at the  
19 lowest possible cost, in an environmentally responsible manner, consistent with  
20 reliable service.

21 The Board, in determining whether this provision has been met, must similarly balance the  
22 requirement for the lowest possible cost, with ensuring that the proposed action is  
23 environmentally responsible and consistent with reliable service. A solution that is merely the  
24 lowest possible cost without meeting the other two criteria does not satisfy this legislative  
25 requirement. Although Alternative 3a is the lowest cost option to address the immediate needs,  
26 the consideration of a likely future scenario where further capacity would be needed would  
27 support Alternative 3b, as it better meets the need for future reliability and avoids the higher

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<sup>1</sup> *Electrical Power Control Act, 1994*, SNL 1994, c E-5.1, s 3(a)(iii).

<sup>2</sup> *Electrical Power Control Act, 1994*, SNL 1994, c E-5.1, s 3(a)(i).

1 cost of addressing the shortfall at the time it materializes. Newfoundland and Labrador Hydro  
2 (“Hydro”) believes that the Board has the jurisdiction to balance the requirements for the  
3 lowest possible cost, reliability, and environmental responsibility to approve Hydro’s proposal to  
4 proceed with Alternative 3b.