



*Newfoundland  
& Labrador*

BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

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IN THE MATTER OF THE  
**2003 GENERAL RATE APPLICATION**  
FILED BY  
**NEWFOUNDLAND AND LABRADOR HYDRO**

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**APPENDICES**

**SUPPLEMENTARY DOCUMENT  
TO BOARD ORDER No. P.U. 14 (2004)**

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**BEFORE:**

**Mr. Robert Noseworthy  
Chair and Chief Executive Officer**

**Ms. Darlene Whalen, P.Eng.  
Vice-Chair**

**Mr. G. Fred Saunders  
Commissioner**

**Board of Commissioners of Public Utilities  
Order No. P.U. 14 (2004)  
List of Appendices**

Appendix	Description	Dated
<b>A</b>	<b>Newfoundland and Labrador Hydro (NLH) 2003 General Rate Application</b> <i>NLH's application for approval of, inter alia, rates to be charged its customers.</i>	May 21, 2003
<b>B</b>	<b>NLH Amended 2003 General Rate Application</b> <i>NLH filed an amended application for approval of, inter alia, rates to be charged its customers.</i>	August 12, 2003
<b>C</b>	<b>Information # 1</b> <i>Various directions from Government issued pursuant to section 4.1 of the Public Utilities Act and sections 5.1 and 5.2 of the Electric Power Control Act.</i>	July 18, 2003
<b>D</b>	<b>Procedural Order No. P. U. 24 (2003)</b> <i>Board Order identifying registered intervenors, setting procedural rules for the conduct of the hearing and setting the schedule for the filing and service of documents, motions days and the actual hearing.</i>	July 23, 2003
<b>E</b>	<b>Complaint to the Public Utilities Board of Discriminatory Rates on Behalf of the Town of Labrador City and the Town of Wabush</b> <i>Complaint from the Towns of Labrador City and Wabush.</i>	July 23, 2003
<b>F</b>	<b>Order No. P.U. 25 (2003)</b> <i>Board Order dismissing the application by the Towns of Labrador City and Wabush requesting that it be granted its costs of intervention and stating that the issue of costs would be addressed upon motion of a party at the conclusion of the hearing.</i>	July 23, 2003
<b>G</b>	<b>Order No. P.U. 32 (2003)</b> <i>Board Order dismissing the motion by NLH's Industrial Customers to exclude certain evidence.</i>	September 23, 2003
<b>H</b>	<b>Consent # 1</b> <i>Parties' Agreement on Cost of Service and Rate Design Issues filed with the Board on October 9, 2003.</i>	October 3, 2003
<b>I</b>	<b>Order No. P.U. 34 (2003)</b> <i>Board Order granting the request of the Towns of Labrador City and Wabush to postpone the proceedings to commence in Labrador City on November 3, 2003.</i>	October 30, 2003
<b>J</b>	<b>Order No. P.U. 40 (2003)</b> <i>Board Order approving proposed amendments to the Rate Stabilization Plan effective January 1, 2004.</i>	December 16, 2003

**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

**ORDER NUMBER: P.U. 14 (2004)**

**APPENDIX A**

**IN THE MATTER OF** the *Public Utilities Act*, (R.S.N. 1990, Chapter P-47 (the “Act”), and

**IN THE MATTER OF** a General Rate Application (the “Application”) by Newfoundland and Labrador Hydro for approvals of, under Section 70 of the Act, changes in the rates to be charged for the supply of power and energy to Newfoundland Power, Rural Customers and Industrial Customers; and under Section 71 of the Act, changes in the Rules and Regulations applicable to the supply of electricity to Rural Customers.

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

**THE APPLICATION** of Newfoundland and Labrador Hydro (“Newfoundland Hydro”)

**STATES that: -**

1. Newfoundland Hydro is a corporation continued and existing under the Hydro Corporation Act, is a public utility within the meaning of the Act and is subject to the provisions of the *Electrical Power Control Act, 1994* (“EPCA, 1994”).
2. The last general rate application by Newfoundland Hydro to the Board was filed on May 31, 2001. By Order No. P.U. 7 (2002-03) the Board gave direction on a number of matters as more particularly set out in that Order, including that Newfoundland Hydro file its next general rate application no later than December 31, 2003.

3. On August 16, 2002, Newfoundland Hydro filed a revised total 2002 Revenue Requirement, Rate Base, Return on Rate Base, Schedule of Rates and 2002 Cost of Service Study, all in accordance with Order No. P.U. 7 (2002-2003).
4. By Order No. P.U. 21 (2002-2003), the Board approved the rates currently charged by Newfoundland Hydro to its customers, which became effective September 1, 2002; fixed the forecast 2002 test year Rate Base at \$1,359,570,000; allowed a Return on Rate Base, based on the 2002 test year of 7.081% and approved the Rules and Regulations, currently in effect, for Rural Customers.
5. By Order No. P.U. 10 (2003) the Board approved changes to the Rules and Regulations for Rural Customers.
6. The Applicant proposes:
  - (1) that the rate charged Newfoundland Power be increased, no later than January 1, 2004 to 54.60 mills per kWh;
  - (2) that the rate charged Newfoundland Power as of January 1, 2004, for firming up secondary energy purchased from Corner Brook Pulp and Paper Limited and re-sold to Newfoundland Power as firm energy be decreased to 6.45 mills per kWh;

- (3) that the rates charged to Industrial Customers for firm service be increased, no later than January 1, 2004, to a demand charge of \$6.54 per kW per month, an energy charge of 27.65 mills per kWh and the relevant annual specifically assigned charges;
- (4) that the rates charged to Industrial Customers for non-firm service be, as of January 1, 2004, \$1.50 per kW per month and a variable energy charge based on the calculation on Page 3 of the Rates Schedules attached to this Application;
- (5) that the rate for wheeling energy for Abitibi-Consolidated Company of Canada be decreased to 4.52 mills per kWh as of January 1, 2004;
- (6) that the existing policy be continued of allowing the Applicant, as Newfoundland Power changes its rates, to automatically adjust the rates which it charges its Island Interconnected Rural Customers, its customers served from the L'Anse au Loup System, and its non-Government Isolated Domestic Rural Customers for the first 700 kWh per month of consumption, so that such rates are the same as the rates charged by Newfoundland Power to its customers;
- (7) that the existing policy be continued of allowing the Applicant to change the rates charged for consumption over 700 kWh per month of electricity sold to non-Government Isolated Domestic Rural Customers (the "lifeline block"), by the average rate of change (i.e. increase or decrease) granted to Newfoundland Power from time to time;

- (8) that the preferential rates charged certain Rural Customers be phased out, as directed by Order No. P.U. 7 (2002-2003) and as outlined in the Rates and Customer Service Evidence filed with this Application;
- (9) that the policy, outlined in Order No. P.U. 7 (2002-2003) of charging rates based on full cost recovery for Government departments and agencies, excluding hospitals and schools in Isolated Rural Systems, be continued;
- (10) that the rates charged schools and hospitals in Isolated Rural Systems be based on full cost recovery with this being phased in over a multi-year period as outlined in the Rates and Customer Services Evidence filed with this Application;
- (11) that the lifeline block be phased out for Isolated General Service Customers and that a demand energy rate structure be implemented for these customers as directed by Order No. P.U. 7 (2002-2003) and as outlined in the Rates and Customer Services Evidence filed with this Application;
- (12) that the rates for Labrador Interconnected Customers be based on a uniform Rate Structure as approved in Order No. P.U. 7 (2002-2003) and phased in over a five-year period as outlined in the Rates and Customer Service Evidence filed with this Application;
- (13) that the following financial targets be approved by the Board as appropriate for Hydro:

Return on Equity (ROE)	-	10.75%
Debt to Capital Structure	-	80%
Return on Rate Base	-	8.25%

- (14) that the estimated 2004 average Rate Base be \$1,485,468,000;
- (15) that the just and reasonable Rate of Return on the estimated average Rate Base for 2004 be 8.25% ;
- (16) certain minor amendments to the Rules and Regulations which govern the provision of service to Rural Customers be made to eliminate the statement preparation fee; to reduce the fee applicable for customer name changes from \$14 to \$8; and to extend the application of the reconnection fee to circumstances where customers request reconnection of service following a request for a landlord to disconnect;

7. The Applicant requests that the Board make an Order as follows:

- (1) fixing and determining the 2004 Rate Base of the Applicant at \$1,485,468,000;
- (2) determining a just and reasonable rate of return for 2004 on average Rate Base of 8.25%;
- (3) Approving, pursuant to Section 70 of the Act, the rate of 54.60 mills per kWh to be charged Newfoundland Power as set out in the Rates Schedules 2004 p. 1 of 45 attached to this Application;



(4) Approving, pursuant to Section 70 of the Act, the firming up charge of 6.45 mills per kWh for secondary energy supplied by Corner Brook Pulp and Paper Limited to the Applicant and delivered as firm power and energy to Newfoundland Power as set out in the Rates Schedules 2004 p. 1 of 45 attached to this Application;

(5) Approving, pursuant to Section 70 of the Act, the rate of \$6.54 per kW per month demand charge and an energy charge of 27.65 mills per kWh to be charged Island Industrial Customers for firm power and energy, plus the annual specifically assigned charge as follows;

Abitibi-Consolidated Company of Canada -Grand Falls	\$ 2,059
Abitibi-Consolidated Company of Canada -Stephenville	111,420
Corner Brook Pulp and Paper Limited	177,953
North Atlantic Refining Limited	184,526

as set out in the Rates Schedules 2004 p. 2 of 45 attached to this Application;

(6) Approving, pursuant to Section 70 of the Act, the rate for non-firm service to Industrial Customers as set out in the Rates Schedules 2004, p. 3 attached to this Application;

(7) Approving, pursuant to Section 70 of the Act, the rate of 4.52 mills per kWh as a wheeling fee to be charged Abitibi-Consolidated Company of Canada as set out in the Rates Schedules 2004, p. 4 of 45 attached to this Application;

- (8) Approving, pursuant to Section 70 of the Act, the rates for 2004 to 2008 for Rural Customers set out in the Rates Schedules attached to this Application;
  - (9) Approving, pursuant to Section 70 of the Act, changes to the Rules and Regulations applicable to providing service to Rural Customers outlined in paragraph 6 (16 ) hereof;
  - (10) Granting such alternative, additional or further relief as the Board shall consider fit and proper in the circumstances.
8. Communications with respect to this Application should be forwarded to Counsel for the Applicant, Maureen P. Greene, Q.C., Vice-President and General Counsel, Newfoundland and Labrador Hydro, P.O. Box 12400, St. John's, Newfoundland, A1B 4K7, phone 737-1465, fax 737-1782.

**DATED** at St. John's, Newfoundland this 21st day of May, 2003.

**NEWFOUNDLAND AND LABRADOR HYDRO**

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William E. Wells  
President and Chief Executive Officer  
Newfoundland & Labrador Hydro  
Hydro Place, Columbus Drive  
P.O. Box 12400  
St. John's, Newfoundland  
A1B 4K7

**IN THE MATTER OF** the *Public Utilities Act*, (R.S.N. 1990, Chapter P-47 (the “Act”); *and*

**IN THE MATTER OF** a General Rate Application (the “Application”) by Newfoundland and Labrador Hydro for approvals of under Section 70 of the Act, changes in the rates to be charged for the supply of power and energy to Newfoundland Power, Rural Customers and Industrial Customers; and Under Section 71 of the Act, changes in the Rules and Regulations applicable to the supply of electricity to Rural Customers.

**AFFIDAVIT**

I, William E. Wells of St. John’s in the Province of Newfoundland, make oath and say as follows:

1. I am President and Chief Executive Officer of Newfoundland and Labrador Hydro, the Applicant named in the attached Application.
2. To the best of my knowledge, information and belief, all matters, facts and things set out in the attached Application are true.

**SWORN** at St. John’s in the )  
Province of Newfoundland )  
this 21st day of May 2003, )  
before me: )

\_\_\_\_\_  
Barrister

\_\_\_\_\_  
William E. Wells

**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

**ORDER NUMBER: P.U. 14 (2004)**

**APPENDIX B**

**IN THE MATTER OF** the *Public Utilities Act*, (R.S.N. 1990, Chapter P-47 (the “Act”), and

**IN THE MATTER OF** a General Rate Application (the “Application”) by Newfoundland and Labrador Hydro for approvals of, under Section 70 of the Act, changes in the rates to be charged for the supply of power and energy to Newfoundland Power, Rural Customers and Industrial Customers; and under Section 71 of the Act, changes in the Rules and Regulations applicable to the supply of electricity to Rural Customers.

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

**THE AMENDED APPLICATION** of Newfoundland and Labrador Hydro (“Newfoundland Hydro”)

**STATES that: -**

1. Newfoundland Hydro is a corporation continued and existing under the Hydro Corporation Act, is a public utility within the meaning of the Act and is subject to the provisions of the *Electrical Power Control Act, 1994* (“EPCA, 1994”).
2. The last general rate application by Newfoundland Hydro to the Board was filed on May 31, 2001. By Order No. P.U. 7 (2002-03) the Board gave direction on a number of matters as more particularly set out in that Order, including that Newfoundland Hydro file its next general rate application no later than December 31, 2003.

3. On August 16, 2002, Newfoundland Hydro filed a revised total 2002 Revenue Requirement, Rate Base, Return on Rate Base, Schedule of Rates and 2002 Cost of Service Study, all in accordance with Order No. P.U. 7 (2002-2003).
4. By Order No. P.U. 21 (2002-2003), the Board approved the rates currently charged by Newfoundland Hydro to its customers, which became effective September 1, 2002; fixed the forecast 2002 test year Rate Base at \$1,359,570,000; allowed a Return on Rate Base, based on the 2002 test year of 7.081% and approved the Rules and Regulations, currently in effect, for Rural Customers.
5. By Order No. P.U. 10 (2003) the Board approved changes to the Rules and Regulations for Rural Customers.
6. The Applicant proposes:
  - (1) that the rate charged Newfoundland Power be increased, no later than January 1, 2004 to 54.45 mills per kWh;
  - (2) that the rate charged Newfoundland Power as of January 1, 2004, for firming up secondary energy purchased from Corner Brook Pulp and Paper Limited and re-sold to Newfoundland Power as firm energy be decreased to 6.41 mills per kWh;

- (3) that the rates charged to Industrial Customers for firm service be increased, no later than January 1, 2004, to a demand charge of \$6.49 per kW per month, an energy charge of 27.55 mills per kWh and the relevant annual specifically assigned charges;
- (4) that the rates charged to Industrial Customers for non-firm service be, as of January 1, 2004, \$1.50 per kW per month and a variable energy charge based on the calculation on Page 3 of the Rates Schedules attached to this Application;
- (5) that the rate for wheeling energy for Abitibi-Consolidated Company of Canada be decreased to 4.49 mills per kWh as of January 1, 2004;
- (6) that the existing policy be continued of allowing the Applicant, as Newfoundland Power changes its rates, to automatically adjust the rates which it charges its Island Interconnected Rural Customers, its customers served from the L'Anse au Loup System, and its non-Government Isolated Domestic Rural Customers for the first 700 kWh per month of consumption, so that such rates are the same as the rates charged by Newfoundland Power to its customers;
- (7) that the existing policy be continued of allowing the Applicant to change the rates charged for consumption over 700 kWh per month of electricity sold to non-Government Isolated Domestic Rural Customers (the "lifeline block"), by the average rate of change (i.e. increase or decrease) granted to Newfoundland Power from time to time;

- (8) < >
- (9) that the policy, outlined in Order No. P.U. 7 (2002-2003) of charging rates based on full cost recovery for Government departments < >, excluding hospitals and schools in Isolated Rural Systems, be continued;
- (10) < >
- (11) that the lifeline block be phased out for Isolated General Service Customers and that a demand energy rate structure be implemented for these customers as directed by Order No. P.U. 7 (2002-2003) and as outlined in the Rates and Customer Services Evidence filed with this Application;
- (12) that the rates for Labrador Interconnected Customers be based on a uniform Rate Structure as approved in Order No. P.U. 7 (2002-2003) and phased in over a five-year period as outlined in the Rates and Customer Service Evidence filed with this Application;
- (13) that the following financial targets be approved by the Board as appropriate for Hydro:



Return on Equity (ROE)	- 9.75%
Debt to Capital Structure	- 80%
Return on Rate Base	- 8.15%

- (14) that the estimated 2004 average Rate Base be \$1,485,468,000;
- (15) that the just and reasonable Rate of Return on the estimated average Rate Base for 2004 be 8.15% ;
- (16) certain minor amendments to the Rules and Regulations which govern the provision of service to Rural Customers be made to eliminate the statement preparation fee; to reduce the fee applicable for customer name changes from \$14 to \$8; and to extend the application of the reconnection fee to circumstances where customers request reconnection of service following a request for a landlord to disconnect;

7. The Applicant requests that the Board make an Order as follows:

- (1) fixing and determining the 2004 Rate Base of the Applicant at \$1,485,468,000;
- (2) determining a just and reasonable rate of return for 2004 on average Rate Base of 8.15%;
- (3) Approving, pursuant to Section 70 of the Act, the rate of 54.45 mills per kWh to be charged Newfoundland Power as set out in the Rates Schedules 2004 p. 1 of 32 attached to this Application;

(4) Approving, pursuant to Section 70 of the Act, the firming up charge of 6.41 mills per kWh for secondary energy supplied by Corner Brook Pulp and Paper Limited to the Applicant and delivered as firm power and energy to Newfoundland Power as set out in the Rates Schedules 2004 p. 1 of 32 attached to this Application;

(5) Approving, pursuant to Section 70 of the Act, the rate of \$6.49 per kW per month demand charge and an energy charge of 27.55 mills per kWh to be charged Island Industrial Customers for firm power and energy, plus the annual specifically assigned charge as follows;

Abitibi-Consolidated Company of Canada -Grand Falls	\$ 2,043
Abitibi-Consolidated Company of Canada –Stephenville	110,666
Corner Brook Pulp and Paper Limited	177,184
North Atlantic Refining Limited	183,497

as set out in the Rates Schedules 2004 p. 2 of 32 attached to this Application;

(6) Approving, pursuant to Section 70 of the Act, the rate for non-firm service to Industrial Customers as set out in the Rates Schedules 2004, p. 3 attached to this Application;

(7) Approving, pursuant to Section 70 of the Act, the rate of 4.49 mills per kWh as a wheeling fee to be charged Abitibi-Consolidated Company of Canada as set out in the Rates Schedules 2004, p. 4 of 32 attached to this Application;

- (8) Approving, pursuant to Section 70 of the Act, the rates for 2004 to 2008 for Rural Customers set out in the Rates Schedules attached to this Application;
  - (9) Approving, pursuant to Section 70 of the Act, changes to the Rules and Regulations applicable to providing service to Rural Customers outlined in paragraph 6 (16 ) hereof;
  - (10) Granting such alternative, additional or further relief as the Board shall consider fit and proper in the circumstances.
8. Communications with respect to this Application should be forwarded to Counsel for the Applicant, Maureen P. Greene, Q.C., Vice-President and General Counsel, Newfoundland and Labrador Hydro, P.O. Box 12400, St. John's, Newfoundland, A1B 4K7, phone 737-1465, fax 737-1782.

**DATED** at St. John's, Newfoundland this        day of August 2003.

**NEWFOUNDLAND AND LABRADOR HYDRO**

---

William E. Wells  
President and Chief Executive Officer  
Newfoundland & Labrador Hydro  
Hydro Place, Columbus Drive  
P.O. Box 12400  
St. John's, Newfoundland  
A1B 4K7

**IN THE MATTER OF** the *Public Utilities Act*, (R.S.N. 1990, Chapter P-47 (the “Act”); and

**IN THE MATTER OF** a General Rate Application (the “Application”) by Newfoundland and Labrador Hydro for approvals of under Section 70 of the Act, changes in the rates to be charged for the supply of power and energy to Newfoundland Power, Rural Customers and Industrial Customers; and Under Section 71 of the Act, changes in the Rules and Regulations applicable to the supply of electricity to Rural Customers.

**AFFIDAVIT**

I, William E. Wells of St. John’s in the Province of Newfoundland, make oath and say as follows:

1. I am President and Chief Executive Officer of Newfoundland and Labrador Hydro, the Applicant named in the attached Amended Application.
2. To the best of my knowledge, information and belief, all matters, facts and things set out in the attached Amended Application are true.

**SWORN** at St. John’s in the Province )  
of Newfoundland and Labrador )  
this day of August 2003, )  
before me: )

\_\_\_\_\_  
Barrister (NL)

\_\_\_\_\_  
William E. Wells

**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

**ORDER NUMBER: P.U. 14 (2004)**

**APPENDIX C**

**Board of Commissioners of Public Utilities**  
**Board Order No. P. U. 14(2004)**  
**List of Appendices**

**Appendix C**

**Details of Information Item No. 1**

Information Item filed in Newfoundland and Labrador Hydro's 2003 General Rate Application by Board Counsel detailing certain directions to the Board from Government pursuant to section 4.1 of the *Public Utilities Act* and sections 5.1 and 5.2 of the *EPCA* as follows:

- Page 1 Revision filed August 14, 2003 pursuant to s. 5.1 of the *EPCA* regarding preferential rates to be charged to certain rural customers etc.
- Page 2 Filed July 18, 2003 pursuant to s. 5.1 of the *EPCA* directing the Board to conduct a hearing upon receipt of a complaint of discriminatory rates from Labrador West.
- Page 3 Filed July 18, 2003 pursuant to s. 5.2 of the *EPCA* regarding the exemption of the power purchase agreement related to the Wind Power Demonstration Project.
- Page 4 Filed July 18, 2003 pursuant to s. 4.1 of the *Public Utilities Act* regarding the exemption of the power purchase agreement related to the Wind Power Demonstration Project.
- Page 5 Filed September 4, 2003 pursuant to s. 5.1 of the *EPCA* directing the Board to adopt a policy that recovers fully in appropriate rates the utility's costs, relative to projects exempted from the *Public Utilities Act* and *EPCA*.

**Page 1 - (Revision 2003-08-14)**

Under the authority of section 5.1 of the Electric Power Control Act, 1994, the Lieutenant Governor in Council hereby directs the Board of Commissioners of Public Utilities to:

- i) continue to charge fish plants in diesel-serviced communities and with demand of 30 kilowatts or more the Island interconnected electricity rate;
- ii) continue to charge churches and community halls in diesel-serviced communities the diesel domestic electricity rate and to continue to charge various customer groups in diesel communities, rates calculated on the same basis as existing practice;
- iii) continue the allocation of a monthly block of energy for domestic residential customers in diesel-serviced communities, and that such service be priced at Newfoundland Power's interconnected domestic electricity rate. The monthly lifeline block should be satisfactory to provide for the necessary monthly household requirements, excluding space heating. Subsequent monthly energy blocks for these customers to be charged incrementally higher rates as historically structured and determined. Such rates would increase as per any percentage increase to Island interconnected rates for Newfoundland Power customers;
- iv) proceed, as the Public Utilities Board determines appropriate, with implementation of a demand/energy rate structure for general service (commercial) customers in diesel communities, where such customers currently pay the diesel general service electricity rate. While the rate changes can include elimination of the lifeline block for these general service customers, the new rates should target the current cost recovery level for these customers;
- v) continue to fund the financial deficit resulting from providing electrical service to Newfoundland and Labrador Hydro's rural customers through the electricity rates charged to Newfoundland and Labrador Hydro's other electricity customers, including its Labrador interconnected retail customers and Newfoundland Power, but excluding the industrial customers;
- vi) ensure Newfoundland and Labrador Hydro's communication to its retail customers, regarding rate changes and customers impacts, is carried out in a timely and suitable manner; and
- vii) continue to charge the preferential electricity rates historically charged to provincial government facilities, including schools, health facilities and government agencies, in rural isolated diesel serviced communities and the Burgeo school and library.

**Page 2**

Under the authority of section 5.1 of the Electric Power Control Act, 1994, the Lieutenant Governor in Council hereby directs the Public Utilities Board to:

- i) conduct a hearing, on receipt of a complaint of discriminatory rates from one or more municipalities in Labrador West, into the appropriate rate calculation methodology for the Labrador Interconnected System;
- ii) provide full opportunity for Labrador West (Labrador City, Wabush and/or Iron Ore Company of Canada and Wabash Mines, and the residents and representatives thereof) and other interested parties to present arguments/evidence before such hearing; and,
- iii) provide a full and formal decision, with detailed reasons, with respect to Labrador Interconnected rates;

with the hearing to be held separately, but before the hearing for Newfoundland and Labrador Hydro's general rate application, or the two may be combined with the proviso that the decision on the Labrador West issue will be incorporated into the final decision on Newfoundland and Labrador Hydro's rate application.



**Page 3**

Under the authority of section 5.2 of the Electric Power Control Act, 1994, the Lieutenant Governor in Council hereby exempts the Power Purchase Agreement and Newfoundland and Labrador Hydro's activities related to the Wind Power Demonstration Project from the authority of the Board of Commissioners of Public Utilities.

**Page 4**

Under the authority of section 4.1 of the Public Utilities Act, the Lieutenant Governor in Council hereby exempts the Power Purchase Agreement and Newfoundland and Labrador Hydro's activities related to the Wind Power Demonstration Project from the authority of the Board of Commissioners of Public Utilities.

**Page 5**

Under the authority of section 5.1 of the Electric Power Control Act, 1994, the Lieutenant Governor in Council is pleased to direct the Board of Commissioners of Public Utilities to:

- i) adopt a policy that a utility's costs, relative to projects exempted from the Public Utilities Act and the Electrical Power Control Act, 1994 by Order in Council, shall be recovered fully in appropriate rates, unless otherwise directed on a specific project; and,
- ii) that costs related to the Lower Churchill Development Project will be excluded from such policy directive.

**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

**ORDER NUMBER: P.U. 14 (2004)**

**APPENDIX D**

**P.U. 24 (2003)**

**IN THE MATTER OF** the *Electrical Power Control Act*, 1994 (the "EPCA") and the matter of the *Public Utilities Act* R.S.N. 1990, Chapter P-47 (the "Act");

**AND IN THE MATTER OF** an application by Newfoundland and Labrador Hydro for approval of, *inter alia*, rates to be charged its customers (the "*Application*").

**BEFORE:**

**Robert Noseworthy**  
**Chair and Chief Executive Officer**

**Darlene Whalen, P.Eng.**  
**Vice-Chairperson**

**G. Fred Saunders**  
**Commissioner**

## PROCEDURAL ORDER

**WHEREAS** Newfoundland and Labrador Hydro (“NLH”), filed an application with the Board of Commissioners of Public Utilities (“the Board”) on May 21, 2003 for an Order of the Board approving, among other things, the proposed rates for the various customers of NLH, to be effective January 1, 2004; and

**WHEREAS** Notice of the Application and Pre-hearing Conference was published in newspapers throughout Newfoundland and Labrador beginning on June 11, 2003; and

**WHEREAS** after publishing Notice, the Board received a Notice of Intervention and Submission from the Town of Labrador City, as well as Intervenor Submissions from Newfoundland Power Inc., the Consumer Advocate and the Island Industrial Customers; and

**WHEREAS** on July 18, 2003 a Pre-hearing Conference was held in the Board’s Hearing Room, 2<sup>nd</sup> Floor, Prince Charles Building, 120 Torbay Road, St. John’s; and

**WHEREAS** at the Pre-hearing Conference Voisey’s Bay Nickle Co. Ltd. and the Town of Wabush sought to be added as intervenors. No party opposed either of the interventions; and

**WHEREAS** other issues addressed at the Pre-hearing Conference included the schedule of pre-hearing dates and the procedures to be followed in the proceeding; and

**WHEREAS** having heard from the parties, and giving regard to their agreement with respect to the requests for intervenor status and the Rules of Procedure, the Board makes the following order pursuant to the provisions of the *Act*.

**IT IS THEREFORE ORDERED THAT:**

1. Each party shall file an issues list in accordance with the Schedule of Pre-hearing Dates setting out all those issues that the party intends to address in the proceeding. The issues list is filed without prejudice to the party's ability to canvass any issue in the proceeding.
2. The Registered Intervenors in this proceeding are set out in Appendix "A" to this Order.
3. The Schedule of Pre-hearing Dates as set out in Appendix "B" to this Order shall be observed by the parties, unless otherwise directed by the Board.
4. The Rules of Procedure as set out in Appendix "C" to this Order shall be observed by the parties, unless otherwise directed by the Board.

**DATED** at St. John's, Newfoundland and Labrador this 23<sup>rd</sup> day of July 2003.

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Robert Noseworthy,  
Chair & Chief Executive Officer.

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Darlene Whalen, P.Eng.,  
Vice-Chairperson.

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G. Fred Saunders,  
Commissioner.

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G. Cheryl Blundon,  
Board Secretary.

**Appendix “A” Registered Intervenors**

**Appendix “B” Schedule of Pre-hearing Dates**

**Appendix “C” Rules of Procedure**



## Appendix "A"

**NEWFOUNDLAND AND LABRADOR HYDRO  
2003 GENERAL RATE APPLICATION  
Registered Intervenors**

**The following is a list of parties who are identified as registered Intervenors to this hearing:**

1. **The Consumer Advocate, Dennis Browne, Q.C.**  
*represented by*  
Stephen Fitzgerald  
Browne Fitzgerald Morgan & Avis  
P. O. Box 23135  
Terrace on the Square, Level II  
St. John's, NL A1B 4J9  
Telephone: 724-3800  
Fax: 754-3800
  
2. **Newfoundland Power Inc.**  
*represented by*  
Peter Alteen  
Corporate Counsel and Secretary  
Newfoundland Power Inc.  
55 Kenmount Road  
P. O. Box 8910  
St. John's, NL A1B 3P6  
Telephone: 737-5609  
Fax: 737-2974
  
3. **The Industrial Customers – Abitibi Consolidated Canada, Stephenville and Grand Falls Division; Corner Brook Pulp and Paper Company Limited; North Atlantic Refining Limited and Voisey's Bay Nickel Company Limited**  
*represented by*

Janet M. Henley Andrews, Q.C. Steward McKelvey Stirling Scales Cabot Place, 100 New Gower Street P. O. Box 5038 St. John's, NL A1C 5V3 Telephone: 570-8843 Fax: 722-4565	Joseph S Hutchings, Q.C. Poole Althouse 49-51 Park Street P. O. Box 812 Corner Brook, NL A2H 6H7 Telephone: (709) 637-6425 Fax: (709) 634-8247
---	---
  
4. **The Towns of Labrador City and Wabush**  
*represented by*  
Edward Hearn, Q.C.  
Miller & Hearn  
450 Avalon Drive  
P. O. Box 129  
Labrador City, NL A2V 2K3  
Telephone: (709) 944-3666  
Fax: (709) 944-5494

**Appendix "B"**

**NEWFOUNDLAND AND LABRADOR HYDRO  
2003 GENERAL RATE APPLICATION  
Schedule of Pre-hearing Dates**

**June 2003**

June 25 Intervenor Submissions

**July 2003**

July 18 Counsel meeting - 9 am  
July 18 Pre-Hearing Conference – 2 pm  
July 22 Requests for Information (RFIs) submitted to NLH

**August 2003**

August 12 Responses to RFIs filed by NLH  
August 12 NLH files updated application  
August 12 NLH files Issues List  
August 18 Requests for Information (RFIs) submitted to NLH on the refiled application and the responses to the first RFIs (2<sup>nd</sup> Round of RFIs)  
August 20 Counsel meeting – 2 pm  
August 21 Motions Day – 2 pm  
August 25 Responses to 2<sup>nd</sup> Round of RFIs filed by NLH

**September 2003**

Sept. 2 Expert Reports and Pre-filed testimony filed by Intervenors and Board  
Sept. 2 Witness lists filed by parties  
Sept. 2 Issues lists filed by Intervenors  
Sept. 11 RFIs, Expert Reports and Pre-filed testimony of the Intervenor and the Board  
Sept. 15 Counsel meeting – 2 pm  
Sept. 16 Motions Day – 2 pm  
Sept. 19 Intervenor and Board responses to RFIs  
Sept. 23, 24, 25, & 26 Negotiation Days/Technical Conference  
September 29 & 30 Negotiation Days/Technical Conference

**October 2003**

Oct. 1 Negotiation Days/Technical Conference  
Oct. 2 Counsel meeting – 10 am  
Oct. 2 Motions Day – 2 pm  
Oct. 3 Last filing date before hearing commencement, all answers to outstanding questions to be filed  
Oct. 6 Hearing to commence

**Appendix "C"****NEWFOUNDLAND AND LABRADOR HYDRO  
2003 GENERAL RATE APPLICATION****Rules of Procedure**

Unless otherwise ordered by the Board, these Rules of Procedure shall govern the conduct of the proceeding. The rules of procedure set out in *Regulation 39/96* apply in this proceeding to the extent that they are consistent with these Rules.

**1. Record**

- (1) All documents filed with respect to this proceeding shall be placed on the public record.
- (2) The official record of this proceeding will be the original paper copy filed with the Board's Secretary

**2. Form of Documents**

- (1) Every written document filed shall be prepared as follows:
  - (a) Typed, written or printed on 8½" X 11" letter size paper, 3-hole punched for standard binders.
  - (b) Each page shall be numbered.
  - (c) Where practicable each line shall be numbered.

**3. Filing of Documents**

- (1) One original signed copy of each document to be entered in the proceeding shall be filed with the Board.
- (2) In addition to the original document each party shall submit to the Board ten (10) copies.
- (3) Documents may be filed by:
  - (a) hand delivery;
  - (b) courier service;
  - (c) facsimile;
  - (d) registered mail; or
  - (e) other means directed by the Board
- (4) Filing is accomplished when the Board receives the document.
- (5) All documents filed according to the scheduled dates shall be filed no later than 3:00 P.M. on the date stipulated. Documents filed after 3:00 P.M. or those which are filed on a Board holiday shall be considered to have been filed on the next Board business day.

#### 4. **Electronic Filing**

- (1) Each party shall file with the Board an electronic version of all documents filed in this proceeding in the following manner:
  - (a) Each individual document, while in electronic form, shall be converted in to \*.pdf format, still allowing for key word searches and cut and paste functionality.
  - (b) Within two days after the day of filing of the hard copy, one copy of the electronic \*.pdf file will be emailed to [ito@pub.nf.ca](mailto:ito@pub.nf.ca).
  - (c) All documents filed in hard copy with the Board shall be filed electronically with the exception of:
    - i. covering letters or correspondence;
    - ii. background reports, Board Orders or historical documentation that are unavailable electronically or impractical to provide electronically; and
    - iii. case law filed in support of Motions.

#### 5. **Service of Documents**

- (1) A copy of each document filed with the Board shall be served on the other parties in this proceeding in accordance with the Distribution Listing attached.
- (2) Parties will appoint one person to receive documents for this proceeding, except where a group of individuals or companies has retained common counsel to participate in the proceeding, a reasonable number of copies shall be provided to the group, not, in any event, to exceed the number of members in the group.
- (3) Service may be made as follows:
  - (a) Hand delivery;
  - (b) Courier service;
  - (c) Registered Mail;
  - (d) Facsimile; or
  - (e) Other means ordered by the Board.
- (4) Service will be effective:
  - (a) On the day of delivery, where the document is sent by hand, courier or facsimile;
  - (b) On the date of receipt, where the document is delivered by registered mail; or
  - (c) On a date determined by the Board, where service is made by any other means.

#### 6. **Revisions to Documents**

- (1) Any document may be revised where new information, or information to correct errors in documents becomes available before the completion of the hearing.
- (2) Where all or any part of a document is revised, each revision shall indicate the page(s) revised, the line(s) revised, the number of the revision (i.e. 1<sup>st</sup> revision. 2<sup>nd</sup> revision etc.), and the date of the revision.

**7. Charges for Copies**

- (1) The Board will provide a copy of any public document authored by the Board or its consultants at no charge.
- (2) Copies of documents originating from, or authored by, a party should be requested directly from that party.
- (3) One copy of the transcript for each day of the hearing will be provided to the parties in accordance with the Distribution Listing.
- (4) Copies of the Legislation, Acts, and Regulations can be obtained from the Queen's Printer, viewed at the Board's main office, or viewed on the Board's website at [www.pub.nf.ca](http://www.pub.nf.ca).
- (5) The Board may charge copy fees for the cost associated with the reproduction of any other document requested by an individual or party in accordance with the applicable legislation.

**8. Public Viewing**

- (1) Interested persons may view any or all documents filed in this proceeding on the Board's website, ([www.pub.nf.ca](http://www.pub.nf.ca)) or at the Board's main office by contacting the Board Secretary.

**9. Information Requests**

- (1) The Parties shall observe the dates set for the issuance and filing of requests for information ("RFIs") and dates for responses to RFIs.
- (2) RFIs and responses to RFIs shall be labelled with:
  - a. the initials of the party issuing the RFI;
  - b. consecutive whole numbers; and
  - c. the initials of the party to whom the RFI is directed.
- (3) RFIs, and responses to RFIs, shall constitute part of the record in the proceeding and will be considered to be evidence in the proceeding.
- (4) Where ordered by the Board, a party providing a response to a RFI shall make a witness or witnesses available for cross-examination to speak to the information provided in the response.

**10. Motions**

- (1) Motions on evidentiary issues or matters of law arising out of this proceeding must be filed in writing with the Board and served upon all parties two days before the hearing of the motion.
- (2) Responses to a motion must be filed in writing with the Board and served upon the parties one day before the hearing of the motion.
- (3) Motions shall proceed on a scheduled motions day.

- (4) A party wishing to have a motion heard on a date other than a scheduled motion day must, along with the motion, file with Board and serve upon the parties reasons why the motion should be heard on another date.
- (5) The Board may, at its discretion, where the parties were advised and provided with an opportunity to make written submissions, consider a motion on the basis of the written submissions filed.
- (6) The order of presentation of argument on a motion shall be as set out in the Order of Presentation described in these Rules of Procedure.

## 11. Witnesses

### (1) **Direct Testimony**

- (a) Pre-filed testimony and any expert reports filed in the proceeding shall be adopted in direct examination, and, unless otherwise objected to, will be accepted as evidence.
- (b) Direct examination should be limited to matters set out in the pre-filed testimony except that the Board may allow a witness to provide supplementary or clarifying evidence, update previously filed evidence and respond to evidence given or events occurring since the date of filing of his or her pre-filed evidence, in which case, reasonable opportunity for review of the evidence will be provided prior to cross-examination.
- (c) The Board may restrict direct testimony where it is irrelevant or redundant and not helpful to the Board in making its decision.

### (2) **Examination of Witness**

- (a) Each party shall have an opportunity to examine a witness in accordance with the Order of Presentation set out in these Rules of Procedure.
- (b) The party calling the witness shall be afforded an opportunity for re-direct examination as set out in the Order of Presentation.

### (3) **Board Questions**

- (a) The Board may pose questions to a witness.
- (b) Questions on new matters arising from the questions of the Board after re-direct examination will proceed in the order set out in the Order of Presentation.

### (4) **Objections**

Where an objection is made by a party to a question or answer, the parties shall state their position on the objection in the order set out in the Order of Presentation.

### (5) **Panels of Witnesses**

- (a) A party may use a panel of witnesses where it will be of assistance to the Board.
- (b) A party wishing to call a panel of witnesses shall provide at least two days prior notice to the Board Secretary and the parties.

- (c) When examining a panel of witnesses a party shall put each question to a particular witness on the panel.
- (d) A co-witness on a panel may answer or supplement a question that was posed to, and answered by, another co-witness on the panel where the evidence is relevant and may be of assistance to the Board.

(6) **Co-Counsel**

- (a) Co-counsel may examine the same witness, or panel of witnesses, provided notice is given to the Board Secretary and the parties prior to the start of the cross-examination of the witness.
- (b) Co-counsel shall not examine the same witness on the same subject matter.

(7) **Documents not part of the record of the proceeding**

- (a) A party wishing to examine or cross-examine a witness on a document that is not:
  - a. already part of the record of the proceeding;
  - b. a portion of a transcript of the witness' own testimony given within the preceding two (2) years or in Hydro's last General Rate Application; or
  - c. an Order of the Board,

shall:

- a. file a copy of the document with the Board and all parties by 3 p.m. on the last business day before the examination or cross-examination is to take place;
  - b. provide ten (10) copies to the Board Secretary on the day of the examination or cross-examination; and
  - d. give the witness a reasonable time to review the document before the witness is asked to answer any question concerning the document.
- (b) Where the witness adopts the document it shall be marked as an exhibit to his testimony.
  - (c) Where a document was not adopted as part of the witness' testimony the document may be:
    - i) if the parties consent, entered as a consent exhibit; or
    - ii) entered as an information item.

**12. Time**

All references to time shall be clear days, that is the first and the last day shall be excluded.

**Order of Presentation**

<b><u>WITNESS CALLED BY</u></b>	<b><u>WITNESS CROSS-EXAMINED BY</u></b>	<b><u>MATTERS ARISING FROM BOARD QUESTIONS</u></b>
<b><u>NLH</u></b>	<u>CA</u>	<u>CA</u>
	<u>NP</u>	<u>NP</u>
	<u>IC</u>	<u>IC</u>
	<u>LCW</u>	<u>LCW</u>
	<u>BHC</u>	<u>BHC</u>
	<u>Redirect NLH</u>	<u>NLH</u>
<b><u>CA</u></b>	<u>NLH</u>	<u>NLH</u>
	<u>NP</u>	<u>NP</u>
	<u>IC</u>	<u>IC</u>
	<u>LCW</u>	<u>LCW</u>
	<u>BHC</u>	<u>BHC</u>
	<u>Redirect CA</u>	<u>CA</u>
<b><u>NP</u></b>	<u>NLH</u>	<u>NLH</u>
	<u>CA</u>	<u>CA</u>
	<u>IC</u>	<u>IC</u>
	<u>LCW</u>	<u>LCW</u>
	<u>BHC</u>	<u>BHC</u>
	<u>Redirect NP</u>	<u>NP</u>
<b><u>IC</u></b>	<u>NLH</u>	<u>NLH</u>
	<u>CA</u>	<u>CA</u>
	<u>NP</u>	<u>NP</u>
	<u>LCW</u>	<u>LCW</u>
	<u>BHC</u>	<u>BHC</u>
	<u>Redirect IC</u>	<u>IC</u>
<b><u>LCW</u></b>	<u>NLH</u>	<u>NLH</u>
	<u>CA</u>	<u>CA</u>
	<u>NP</u>	<u>NP</u>
	<u>IC</u>	<u>IC</u>
	<u>BHC</u>	<u>BHC</u>
	<u>Redirect LCW</u>	<u>LCW</u>
<b><u>BHC</u></b>	<u>NLH</u>	<u>NLH</u>
	<u>CA</u>	<u>CA</u>
	<u>NP</u>	<u>NP</u>
	<u>IC</u>	<u>IC</u>
	<u>LCW</u>	<u>LCW</u>
	<u>Redirect BHC</u>	<u>BHC</u>

**Objections**

Counsel making the objection  
 Responding Counsel  
 Remaining Counsel  
 Board Hearing Counsel  
 Reply by the objecting Counsel

**Motions**

Counsel making motion  
 Responding Counsel  
 Remaining Counsel  
 Board Hearing Counsel  
 Reply by Counsel making motion



**NEWFOUNDLAND AND LABRADOR HYDRO  
2003 GENERAL RATE APPLICATION  
Distribution Listings**

**NEWFOUNDLAND AND LABRADOR HYDRO  
2003 GRA - DISTRIBUTION LISTING**

**1. Newfoundland and Labrador Hydro ((NLH) Distribution Listing:**

<b><u>Contact Information</u></b>		
<b><u>Board of Commissioners of Public Utilities</u></b>		
Suite E210, Prince Charles Building 120 Torbay Road P. O. Box 21040 St. John's, NL A1A 5B2	G. Cheryl Blundon Director of Corporate Services and Board Secretary	<b>E-Mail:</b> <a href="mailto:cheryl@pub.nf.ca">cheryl@pub.nf.ca</a> <b>Telephone:</b> (709) 726-8600 <b>Fax:</b> (709) 726-9604
IT/Law Atlantic 1 <sup>st</sup> Floor 357 Duckworth Street P.O. Box 23126 St. John's, NL A1B 4J9	Mark Kennedy Board Hearing Counsel	<b>E-Mail:</b> <a href="mailto:mgk@lawatlantic.ca">mgk@lawatlantic.ca</a> <b>Telephone:</b> (709) 753-1656 <b>Fax:</b> (709) 739-5895

<b><u>Party</u></b>	<b><u>Contact Information</u></b>	
<b><u>Consumer Advocate (CA)</u></b>		
Browne Fitzgerald Morgan & Avis Terrace on the Square, Level II P.O. Box 23135 St. John's, NL A1B 4J9	Dennis Browne, Q.C. Consumer Advocate	<b>E-Mail:</b> <a href="mailto:dbrowne@churchill-law.nf.net">dbrowne@churchill-law.nf.net</a> <b>Telephone:</b> (709) 724-3800 <b>Fax:</b> (709) 754-3800

**Page 2 – Newfoundland and Labrador Hydro (NLH) Distribution Listing**

<b>Party</b>	<b>Contact Information</b>	
<b>Newfoundland Power Inc. (NP)</b>		
55 Kenmount Road P.O. Box 8910 St. John's, NL A1B 3P6	Peter Alteen Corporate Counsel and Secretary	<b>E-Mail:</b> <a href="mailto:palteen@newfoundlandpower.com">palteen@newfoundlandpower.com</a> <b>Telephone:</b> (709) 737-5859 <b>Fax:</b> (709) 737-2974

<b>Party</b>	<b>Contact Information</b>	
<b>Industrial Customers (IC)</b>		
Cabot Place, 100 New Gower Street P.O. Box 5038 St. John's, NL A1C 5V3	Janet M. Henley Andrews, Q.C. Stewart McKelvey Stirling Scales	<b>E-Mail:</b> <a href="mailto:jhenley-andrews@smss.com">jhenley-andrews@smss.com</a> <b>Telephone:</b> (709) 570-8843 <b>Fax:</b> (709) 722-4565
P. O. Box 812, 49-51 Park Street Corner Brook, NL A2H 6H7	Joseph S. Hutchings, Poole Althouse	<b>E-Mail:</b> <a href="mailto:jhutchings@pa-law.ca">jhutchings@pa-law.ca</a> <b>Telephone:</b> (709) 637-6425 <b>Fax:</b> (709) 634-8247

<b>Party</b>	<b>Contact Information</b>	
<b>Towns of Labrador City and Wabush (LCW)</b>		
450 Avalon Drive P. O. Box 129 Labrador City, NL A2V 2K3	Edward Hearn, Q.C. Miller & Hearn	<b>E-Mail:</b> <a href="mailto:Millerh@crrstv.net">Millerh@crrstv.net</a> <b>Telephone:</b> (709) 944-3666 <b>Fax:</b> (709) 944-5494

**NEWFOUNDLAND AND LABRADOR HYDRO  
2003 GRA - DISTRIBUTION LISTING**

**2. NP Distribution Listing:**

<b>Contact Information</b>		
<b>Board of Commissioners of Public Utilities</b>		
Suite E210, Prince Charles Building 120 Torbay Road P. O. Box 21040 St. John's, NL A1A 5B2	G. Cheryl Blundon Director of Corporate Services and Board Secretary	<b>E-Mail:</b> <a href="mailto:cheryl@pub.nf.ca">cheryl@pub.nf.ca</a> <b>Telephone:</b> (709) 726-8600 <b>Fax:</b> (709) 726-9604
IT/Law Atlantic 1 <sup>st</sup> Floor 357 Duckworth Street P.O. Box 23126 St. John's, NL A1B 4J9	Mark Kennedy Board Hearing Counsel	<b>E-Mail:</b> <a href="mailto:mgk@lawatlantic.ca">mgk@lawatlantic.ca</a> <b>Telephone:</b> (709) 753-1656 <b>Fax:</b> (709) 739-5895
<b>Party</b>	<b>Contact Information</b>	
<b>Newfoundland and Labrador Hydro (NLH)</b>		
Hydro Place, Columbus Drive P.O. Box 12400 St. John's, NL A1B 4K7	Maureen P. Greene, Q.C. Vice-President Human Resources, General Counsel & Corporate Secretary	<b>E-Mail:</b> <a href="mailto:mgreene@nlh.nf.ca">mgreene@nlh.nf.ca</a> <b>Telephone:</b> (709) 737-1465 <b>Fax:</b> (709) 737-1782
<b>Party</b>	<b>Contact Information</b>	
<b>Consumer Advocate (CA)</b>		
Browne Fitzgerald Morgan & Avis Terrace on the Square, Level II P.O. Box 23135 St. John's, NL A1B 4J9	Dennis Browne, Q.C. Consumer Advocate	<b>E-Mail:</b> <a href="mailto:dbrowne@churchill-law.nf.net">dbrowne@churchill-law.nf.net</a> <b>Telephone:</b> (709) 724-3800 <b>Fax:</b> (709) 754-3800

**Page 2 – NP Distribution Listing**

<b>Party</b>	<b>Contact Information</b>	
<b>Industrial Customers (IC)</b>		
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P. O. Box 812, 49-51 Park Street Corner Brook, NL A2H 6H7	Joseph S. Hutchings, Poole Althouse	<b>E-Mail:</b> <a href="mailto:jhutchings@pa-law.ca">jhutchings@pa-law.ca</a> <b>Telephone:</b> (709) 637-6425 <b>Fax:</b> (709) 634-8247

<b>Party</b>	<b>Contact Information</b>	
<b>Towns of Labrador City and Wabush (LCW)</b>		
450 Avalon Drive P. O. Box 129 Labrador City, NL A2V 2K3	Edward Hearn, Q.C. Miller & Hearn	<b>E-Mail:</b> <a href="mailto:Millerh@crrstv.net">Millerh@crrstv.net</a> <b>Telephone:</b> (709) 944-3666 <b>Fax:</b> (709) 944-5494

**NEWFOUNDLAND AND LABRADOR HYDRO  
2003 GRA - DISTRIBUTION LISTING**

**3. CA Distribution Listing:**

<b>Contact Information</b>		
<b>Board of Commissioners of Public Utilities</b>		
Suite E210, Prince Charles Building 120 Torbay Road P. O. Box 21040 St. John's, NL A1A 5B2	G. Cheryl Blundon Director of Corporate Services and Board Secretary	<b>E-Mail:</b> <a href="mailto:cheryl@pub.nf.ca">cheryl@pub.nf.ca</a> <b>Telephone:</b> (709) 726-8600 <b>Fax:</b> (709) 726-9604
IT/Law Atlantic 1 <sup>st</sup> Floor 357 Duckworth Street P.O. Box 23126 St. John's, NL A1B 4J9	Mark Kennedy Board Hearing Counsel	<b>E-Mail:</b> <a href="mailto:mgk@lawatlantic.ca">mgk@lawatlantic.ca</a> <b>Telephone:</b> (709) 753-1656 <b>Fax:</b> (709) 739-5895

<b>Party</b>	<b>Contact Information</b>	
<b>Newfoundland and Labrador Hydro (NLH)</b>		
Hydro Place, Columbus Drive P.O. Box 12400 St. John's, NL A1B 4K7	Maureen P. Greene, Q.C. Vice-President Human Resources, General Counsel & Corporate Secretary	<b>E-Mail:</b> <a href="mailto:mgreene@nlh.nf.ca">mgreene@nlh.nf.ca</a> <b>Telephone:</b> (709) 737-1465 <b>Fax:</b> (709) 737-1782

<b>Party</b>	<b>Contact Information</b>	
<b>Newfoundland Power Inc. (NP)</b>		
55 Kenmount Road P.O. Box 8910 St. John's, NL A1B 3P6	Peter Alteen Corporate Counsel and Secretary	<b>E-Mail:</b> <a href="mailto:palteen@newfoundlandpower.com">palteen@newfoundlandpower.com</a> <b>Telephone:</b> (709) 737-5859 <b>Fax:</b> (709) 737-2974

**Page 2 – CA Distribution Listing**

<b>Party</b>	<b>Contact Information</b>	
<b>Industrial Customers (IC)</b>		
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P. O. Box 812, 49-51 Park Street Corner Brook, NL A2H 6H7	Joseph S. Hutchings, Poole Althouse	<b>E-Mail:</b> <a href="mailto:jhutchings@pa-law.ca">jhutchings@pa-law.ca</a> <b>Telephone:</b> (709) 637-6425 <b>Fax:</b> (709) 634-8247

<b>Party</b>	<b>Contact Information</b>	
<b>Towns of Labrador City and Wabush (LCW)</b>		
450 Avalon Drive P. O. Box 129 Labrador City, NL A2V 2K3	Edward Hearn, Q.C. Miller & Hearn	<b>E-Mail:</b> <a href="mailto:Millerh@errstv.net">Millerh@errstv.net</a> <b>Telephone:</b> (709) 944-3666 <b>Fax:</b> (709) 944-5494

**NEWFOUNDLAND AND LABRADOR HYDRO**  
**2003 GRA - DISTRIBUTION LISTING**

**4. IC Distribution Listing:**

<b><u>Contact Information</u></b>		
<b><u>Board of Commissioners of Public Utilities</u></b>		
Suite E210, Prince Charles Building 120 Torbay Road P. O. Box 21040 St. John's, NL A1A 5B2	G. Cheryl Blundon Director of Corporate Services and Board Secretary	<b>E-Mail:</b> <a href="mailto:cheryl@pub.nf.ca">cheryl@pub.nf.ca</a> <b>Telephone:</b> (709) 726-8600 <b>Fax:</b> (709) 726-9604
IT/Law Atlantic 1 <sup>st</sup> Floor 357 Duckworth Street P.O. Box 23126 St. John's, NL A1B 4J9	Mark Kennedy Board Hearing Counsel	<b>E-Mail:</b> <a href="mailto:mgk@lawatlantic.ca">mgk@lawatlantic.ca</a> <b>Telephone:</b> (709) 753-1656 <b>Fax:</b> (709) 739-5895
<b><u>Party</u></b>	<b><u>Contact Information</u></b>	
<b><u>Newfoundland and Labrador Hydro (NLH)</u></b>		
Hydro Place, Columbus Drive P.O. Box 12400 St. John's, NL A1B 4K7	Maureen P. Greene, Q.C. Vice-President Human Resources, General Counsel & Corporate Secretary	<b>E-Mail:</b> <a href="mailto:mgreene@nlh.nf.ca">mgreene@nlh.nf.ca</a> <b>Telephone:</b> (709) 737-1465 <b>Fax:</b> (709) 737-1782
<b><u>Party</u></b>	<b><u>Contact Information</u></b>	
<b><u>Consumer Advocate (CA)</u></b>		
Browne Fitzgerald Morgan & Avis Terrace on the Square, Level II P.O. Box 23135 St. John's, NL A1B 4J9	Dennis Browne, Q.C. Consumer Advocate	<b>E-Mail:</b> <a href="mailto:dbrowne@churchill-law.nf.net">dbrowne@churchill-law.nf.net</a> <b>Telephone:</b> (709) 724-3800 <b>Fax:</b> (709) 754-3800

## Page 2. IC Distribution Listing

<u>Party</u>	<u>Contact Information</u>	
<b>Newfoundland Power Inc. (NP)</b>		
55 Kenmount Road P.O. Box 8910 St. John's, NL A1B 3P6	Peter Alteen Corporate Counsel and Secretary	<b>E-Mail:</b> <a href="mailto:palteen@newfoundlandpower.com">palteen@newfoundlandpower.com</a> <b>Telephone:</b> (709) 737-5859 <b>Fax:</b> (709) 737-2974

<u>Party</u>	<u>Contact Information</u>	
<b>Towns of Labrador City and Wabush (LCW)</b>		
450 Avalon Drive P. O. Box 129 Labrador City, NL A2V 2K3	Edward Hearn, Q.C. Miller & Hearn	<b>E-Mail:</b> <a href="mailto:Millerh@crrstv.net">Millerh@crrstv.net</a> <b>Telephone:</b> (709) 944-3666 <b>Fax:</b> (709) 944-5494



**NEWFOUNDLAND AND LABRADOR HYDRO**  
**2003 GRA - DISTRIBUTION LISTING**

**5. LCW Distribution Listing:**

<b>Contact Information</b>		
<b>Board of Commissioners of Public Utilities</b>		
Suite E210, Prince Charles Building 120 Torbay Road P. O. Box 21040 St. John's, NL A1A 5B2	G. Cheryl Blundon Director of Corporate Services and Board Secretary	<b>E-Mail:</b> <a href="mailto:cheryl@pub.nf.ca">cheryl@pub.nf.ca</a> <b>Telephone:</b> (709) 726-8600 <b>Fax:</b> (709) 726-9604
IT/Law Atlantic 1 <sup>st</sup> Floor 357 Duckworth Street P.O. Box 23126 St. John's, NL A1B 4J9	Mark Kennedy Board Hearing Counsel	<b>E-Mail:</b> <a href="mailto:mkg@lawatlantic.ca">mkg@lawatlantic.ca</a> <b>Telephone:</b> (709) 753-1656 <b>Fax:</b> (709) 739-5895
<b>Party</b>		
<b>Contact Information</b>		
<b>Newfoundland and Labrador Hydro (NLH)</b>		
Hydro Place, Columbus Drive P.O. Box 12400 St. John's, NL A1B 4K7	Maureen P. Greene, Q.C. Vice-President Human Resources, General Counsel & Corporate Secretary	<b>E-Mail:</b> <a href="mailto:mgreene@nlh.nf.ca">mgreene@nlh.nf.ca</a> <b>Telephone:</b> (709) 737-1465 <b>Fax:</b> (709) 737-1782
<b>Party</b>		
<b>Contact Information</b>		
<b>Consumer Advocate (CA)</b>		
Browne Fitzgerald Morgan & Avis Terrace on the Square, Level II P.O. Box 23135 St. John's, NL A1B 4J9	Dennis Browne, Q.C. Consumer Advocate	<b>E-Mail:</b> <a href="mailto:dbrowne@churchill-law.nf.net">dbrowne@churchill-law.nf.net</a> <b>Telephone:</b> (709) 724-3800 <b>Fax:</b> (709) 754-3800

**Page 2 – LCW Distribution Listing**

<b>Party</b>	<b>Contact Information</b>	
<b>Newfoundland Power Inc. (NP)</b>		
55 Kenmount Road P.O. Box 8910 St. John's, NL A1B 3P6	Peter Alteen Corporate Counsel and Secretary	<b>E-Mail:</b> <a href="mailto:palteen@newfoundlandpower.com">palteen@newfoundlandpower.com</a> <b>Telephone:</b> (709) 737-5859 <b>Fax:</b> (709) 737-2974

<b>Party</b>	<b>Contact Information</b>	
<b>Industrial Customers (IC)</b>		
Cabot Place, 100 New Gower Street P.O. Box 5038 St. John's, NL A1C 5V3	Janet M. Henley Andrews, Q.C. Stewart McKelvey Stirling Scales	<b>E-Mail:</b> <a href="mailto:jhenley-andrews@smss.com">jhenley-andrews@smss.com</a> <b>Telephone:</b> (709) 570-8843 <b>Fax:</b> (709) 722-4565
P. O. Box 812, 49-51 Park Street Corner Brook, NL A2H 6H7	Joseph S. Hutchings, Poole Althouse	<b>E-Mail:</b> <a href="mailto:jhutchings@pa-law.ca">jhutchings@pa-law.ca</a> <b>Telephone:</b> (709) 637-6425 <b>Fax:</b> (709) 634-8247

**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

**ORDER NUMBER: P.U. 14 (2004)**

**APPENDIX E**

**COMPLAINT TO THE PUBLIC UTILITIES BOARD OF DISCRIMINATORY RATES  
ON BEHALF OF THE TOWN OF LABRADOR CITY AND THE TOWN OF WABUSH**

The Town of Labrador City and the Town of Wabush hereby make a complaint that Hydro's proposed rates for Labrador West are discriminatory and requests that the Public Utilities Board conduct a hearing into the appropriate rate calculation methodology for the Labrador Interconnected System.

**DATED** at Labrador City, in the Province of Newfoundland and Labrador, this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 2003.

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Edward M. Hearn, Q.C.  
Counsel for Town of Labrador City  
And the Town of Wabush

**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

**ORDER NUMBER: P.U. 14 (2004)**

**APPENDIX F**

**P.U. 25(2003)**

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

**IN THE MATTER OF** an application by Newfoundland and Labrador Hydro (“Hydro”) for approval of, *inter alia*, rates to be charged its customers (the “Application”);

**AND IN THE MATTER OF** a motion by the Towns of Labrador City and Wabush respecting costs.

**WHEREAS** Hydro filed an application with the Board of Commissioners of Public Utilities (the “Board”) on May 21, 2003 for an Order of the Board approving, among other things, the proposed rates for the various customers of Hydro, to be effective January 1, 2004; and

**WHEREAS** Notice of the Application and Pre-hearing Conference was published in newspapers throughout Newfoundland and Labrador beginning on June 11, 2003; and

**WHEREAS** after publishing Notice, the Board received a Notice of Intervention and Submission from the Town of Labrador City, as well as Intervenor Submissions from Newfoundland Power Inc., the Consumer Advocate and the Island Industrial Customers; and

**WHEREAS** as part of the Notice of Intervention and Submission filed, the Town of Labrador City requested, among other things, that it be granted its costs of intervention; and

**WHEREAS** Newfoundland Power and Hydro both filed a reply to the motion with respect to costs; and

**WHEREAS** at the Pre-hearing Conference on July 18, 2003, the Board heard representations on the motion from the Towns of Labrador City and Wabush, as well as Hydro, Newfoundland Power and the Island Industrial Customers; and

**WHEREAS** Section 90(1) of the *Act* does not specifically permit the Board to deal with the issue of costs prior to the hearing, and therefore the Board does not have the jurisdiction to make a preliminary award of costs; and

**WHEREAS** the Board received directions from Government on July 15, 2003 pursuant to Section 5.1 of the *EPCA* with respect to conducting a hearing into the appropriate rate calculation methodology for the Labrador Interconnected System; and

**WHEREAS** the parties may argue at the conclusion of the proceeding that the directions from Government should be considered by the Board in exercising its discretion to award costs.

**IT IS THEREFORE ORDERED THAT:**

1. The motion of the Towns of Labrador City and Wabush is denied.
2. The issue of costs will be addressed upon motion of a party at the conclusion of the proceeding pursuant to Section 90(1) of the *Act*.

**DATED** at St. John's, Newfoundland and Labrador, this 23<sup>rd</sup> day of July 2003.

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Robert Noseworthy,  
Chair & Chief Executive Officer.

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Darlene Whalen, P.Eng.,  
Vice-Chairperson.

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G. Fred Saunders,  
Commissioner.

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G. Cheryl Blundon,  
Board Secretary.



**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

**ORDER NUMBER: P.U. 14 (2004)**

**APPENDIX G**

**P.U. 32 (2003)**

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

**AND IN THE MATTER OF** an application by Newfoundland and Labrador Hydro (“Hydro”) for approval of, *inter alia*, rates to be charged its customers (the “Application”);

**AND IN THE MATTER OF** a motion by Hydro’s Industrial Customers seeking an order to exclude certain evidence.

**Before:**

**Robert Noseworthy**  
**Chair and Chief Executive Officer**

**Darlene Whalen, P. Eng.**  
**Vice-Chair**

**G. Fred Saunders**  
**Commissioner**

## **Background**

Hydro filed an application with the Board of Commissioners of Public Utilities (the “Board”) on May 21, 2003 for an Order of the Board approving, among other things, the proposed rates for the various customers of Hydro to be effective January 1, 2004. A public hearing into the matter is scheduled to begin on October 6, 2003. Registered intervenors for the proceeding are the Consumer Advocate, Mr. Dennis Browne, Q.C.; Newfoundland Power Inc.; Hydro’s Industrial Customers, namely Corner Brook Pulp and Paper Limited, Abitibi Consolidated Company of Canada-Stephenville and Grand Falls Divisions, North Atlantic Refining Limited and Voisey’s Bay Nickel Company Limited; and the Towns of Labrador City and Wabush.

As part of the pre-hearing process and as required by the Board’s Procedural Order P.U. 24 (2003) parties to the proceeding filed reports of the expert witnesses they intend to call. The Board’s Hearing Counsel proposed to file expert reports from EES Consulting and from Mr. Leonard Waverman. Because of concerns raised by some of the parties the Board’s expert reports were not filed as part of the hearing record but were distributed among counsel.

On September 5, 2003 the Industrial Customers filed a motion with the Board seeking an order that the expert’s reports proposed to be filed by Board Hearing Counsel be excluded from evidence on the basis that the filing of such reports raises concerns with respect to an apprehension of bias. As part of the motion a copy of the Table of Contents from the report of EES Consultants was filed. Hydro and Newfoundland Power filed written responses to the motion. The Board heard from the parties on the motion on September 16, 2003.

## **Issues**

The specific issue before the Board is whether the introduction of the evidence of Mr. Leonard Waverman and EES Consulting by Board Hearing Counsel will offend the principles of natural justice and cause an apprehension of bias to be raised. Implicit in this issue is the question as to whether the Board has the authority to retain experts, and to call expert evidence during a proceeding.

## **Board Authority**

The Board's jurisdiction and powers to deal with matters brought before it, and the manner of dealing with such matters, can be found, either expressly or impliedly, within the statutes conferring jurisdiction on and governing the operation of the Board. While setting out certain powers with respect to retention of consultants and experts, the legislation does not expressly confer upon the Board the ability to lead evidence in a proceeding. Rather the Board's authority is implicit in Subsection 6.(11) and Section 118 of the *Act*. Subsection 6.(11) allows the Board to employ those persons that it requires or considers advisable for purposes of carrying out the *Act*. Subsection 118.(2) states that the Board has, in addition to the powers specified in the *Act*, all additional implied and incidental powers which may be appropriate or necessary to carry out the powers specified in the *Act*. The question then becomes whether it is appropriate or necessary for the Board to call witnesses to discharge its duties and responsibilities under the *Act* and the *EPCA*.

Both Hydro and Newfoundland Power highlighted the differences between the quasi-judicial nature of the Board and the courts. The Board's legislative mandate is set out in the *EPCA* and the *Act* and provides for broad powers of regulatory supervision of public utilities in the province. In discharging its mandate the Board is required to implement the power policy of the province as set out in the *EPCA*. Therefore the Board must at all times be concerned with not only the interests of the parties before it on a matter, but must also take into account a broader responsibility in the public interest. In its argument, Hydro referenced Macaulay and Sprague, "Practice and Procedure Before Administrative Tribunals" at page 17-26 where the authors state:

*"In administrative proceedings, a tribunal is generally required to make a decision which determines not only the rights of the parties before it, but, even more important, the impact on the public at large. The public interest component of administrative decision-making makes it clear that it is very important for an administrative tribunal to appoint its own expert witness. All administrative tribunals are, however, creatures of statute. It is arguable, therefore, that the empowering legislation of each tribunal must stipulate if, and when, an expert may be appointed. On the other hand, since administrative tribunals are generally considered to be masters of their own practice and procedure, they may have an inherent power to appoint witnesses and experts to assist in resolving matters that affect the public interest."*

The nature of the issues before the Board in a rate setting proceeding also suggests that it is necessary and appropriate for the Board Counsel to submit expert evidence. Rate hearings are complex and technical involving a number of expert witnesses on specialized subject areas. The purpose of the hearing is to gather relevant and useful evidence and argument so as to allow the Board to fulfill its statutory mandate and make an informed, fact based decision on the matter before it. The Board may benefit from additional evidence brought forward by its staff or experts to ensure that the issues are fully and comprehensively addressed. Macaulay and Sprague also stated at page 17-27:

*“The issue is clearly most germane to proceedings involving complex technical matters which require the assistance of an expert. In such proceedings, it is not only common for the parties to have called expert witnesses to testify on their behalf, but also for the particular tribunal to possess a certain degree of expertise in the area. However, even where a board may take notice of opinions within its own specialized knowledge or experience, it is not uncommon to find issues and subjects that go beyond its own qualifications. As a result, all tribunals should claim access to an inherent right to call their own expert witnesses to ensure a complete and satisfactory record of their proceedings, especially where the matter impacts upon the public interest. This will curtail the bias and confusion that flows naturally from the adversarial process.”*

The Industrial Customers argued that the fact that there are already a number of expert reports being presented to the Board on certain issues negates the necessity of Board Counsel having to also present expert evidence. However, in light of the broader public interest and to address the complexity of the issues, additional evidence may often be necessary. While the experts called by the parties may address specific topic areas, all the detailed issues and perspectives may not be addressed by these experts. Alternatively, an assessment exclusive of the competing interests of the parties may be of benefit to the Board in serving its broader public interest. The Board finds that it has the authority to call the proposed witnesses and will now address the issue of whether the calling of these witnesses raise a reasonable apprehension of bias.

### **Apprehension of Bias**

The Industrial Customers argued that the calling of the two witnesses by Board Counsel raised an apprehension of bias. This position is outlined in Paragraph 2(b) of the motion:

*“Where witnesses file reports, such as the EES Consulting report which has been distributed to counsel, which state that the evidence “is being presented on behalf of the Board of Commissioners of Public Utilities of Newfoundland and Labrador”, there is an obvious concern with respect to the apprehension of bias. It is not reasonable to expect the informed objective observer of these proceedings to think that the Board can view “its own witnesses” in exactly the same manner as witnesses called by parties, but that it is the Board’s obligation inherent in the principles of natural justice. A witness produced by the person whom the Board relies on to give it professional advice will necessarily be perceived as being something different from witnesses produced by the parties who are naturally and necessarily partisans attempting to advance their own interests. Board Counsel is intended to be independent counsel to the Board; witnesses called by Board Counsel will inevitably be endowed in the minds of the objective observer with that degree of independence and hence not be seen to be on a level playing field with witnesses produced by the parties with a real, pecuniary interest in the proceeding. The process is by law adversarial; a person held out as being above the controversy has an unfair advantage in the adversarial process which demeans the status of the actual parties.”*

During argument the Industrial Customers stated that Board Counsel can call a witness but that the evidence called by Board Counsel should be limited to reports of specific investigations and only then when such reports do no more than raise issues, or where there is a gap in the evidence or a specific interest that is not being represented by the parties who are already before the Board. According to the Industrial Customers, a reasonably well-informed person would question why the Board was leading expert evidence on a specific subject matter when there are already a number of experts testifying unless the Board had a certain outcome in mind.

The Consumer Advocate argued that Board Counsel’s role should be limited to examining witnesses that are brought forward by the parties, with the exception of the calling of the Board’s Financial Consultants.

Counsel for the Towns of Labrador City and Wabush supported the motion of the Industrial Customers. It was submitted that the evidence in question should not be received by the Board since, as can be seen from the Table of Contents filed with the motion, the evidence is not intended to fill a gap or clarify a point but rather provides recommendations on every issue before the Board.

In Hydro's view the law recognizes that Board Counsel may call expert evidence and that it has the right to do so. Hydro submits that the fact that it is the Board's Counsel calling an expert is not, by itself, enough to raise an apprehension of bias.

Newfoundland Power also submitted that the Board has the legislative authority to retain experts and that merely calling the evidence itself and retaining the consultant does not raise a reasonable apprehension of bias.

After considering the positions of the parties, the Board does not accept that a reasonable apprehension of bias is raised by the Board calling witnesses to testify to more than reports of specific investigations. Neither is the Board satisfied that the fact there are already a number of witnesses being presented on a certain issue results in a likelihood of a reasonable apprehension of bias. There are many reasons why the Board may benefit from evidence in addition to that being provided by the parties. Hydro in its written brief made reference to Chapter 10 of Macaulay and Sprague "Practice and Procedure Before Administrative Tribunals" where the authors cite the decision of Lord Denning in **Metropolitan Properties C. (F.G.C.) Ltd. v. Lennon** [1969] 1 Q.B. 577 (CA) as follows:

*"It (the Court) does not look to see if there was a real likelihood that he would, or did, in fact favour one side at the expense of the other. The court looks at the impression which would be given to other people. Even if he was so impartial as could be, nevertheless if right-minded persons would think that, in the circumstances, there was a real likelihood of bias on his part, then he should not sit.... Nevertheless there must appear to be a real likelihood of bias. Surmise or conjecture is not enough... There must be circumstances from which a reasonable man would think it likely or probable that the justice, or chairman, as the case may be, would, or did, favour one side unfairly at the expense of the other".*

The Board is not convinced that there is a real likelihood that the production of the reports of EES Consulting and of Mr. Leonard Waverman would raise an apprehension of bias in a reasonably well informed person.

To ensure that the calling of this type of evidence does not offend the principles of natural justice the Board has in place certain safeguards. The Board maintains a separation of its internal procedures to ensure institutional integrity, openness and fairness in relation to matters before it. Other safeguards include early and open disclosure of the evidence, an opportunity to issue information requests and cross-examine the witnesses and make submissions on the evidence. No party has suggested that these safeguards have not been observed in this instance. The Board finds that this creates a fair, open and transparent process and one that embodies the principles of natural justice.

**The Board is satisfied that the calling of the evidence of EES Consulting Ltd. and Mr. Leonard Waverman does not raise a reasonable apprehension of bias and therefore will not exclude this evidence.**



**IT IS THEREFORE ORDERED THAT:**

The motion of the Industrial Customers is denied.

**DATED** at St. John's, Newfoundland and Labrador, this 23<sup>rd</sup> day of September 2003.

---

Robert Noseworthy,  
Chair & Chief Executive Officer.

---

Darlene Whalen, P.Eng.,  
Vice-Chair.

---

G. Fred Saunders,  
Commissioner.

---

G. Cheryl Blundon,  
Board Secretary.

**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

**ORDER NUMBER: P.U. 14 (2004)**

**APPENDIX H**

**IN THE MATTER OF** the Public  
Utilities Act, R.S.N., c. P-42 (the “*Act*”)

**AND**

**IN THE MATTER OF** a General Rate  
Application (the “Application”) by  
Newfoundland and Labrador Hydro (“Hydro”)  
for approvals of, under Section 70 of the *Act*,  
changes in the rates to be charged for the  
supply of power and energy to Newfoundland  
Power Inc (“NP”), Rural Customers and Industrial  
Customers; and under Section 71 of the *Act*,  
changes in the Rules and Regulations applicable  
to the supply of electricity to Rural Customers.

### **Parties’ Agreement on Cost of Service and Rate Design Issues**

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In accordance with the mediation process established in this proceeding, the undersigned consenting Parties have reached agreement regarding the proposed resolution of the following issues in this case regarding cost of service allocation, rate structure and tariff design matters as stated in Section I below. There are a number of additional issues (listed in Section II, below) on which the Parties have not reached agreement. Some of these issues are still under discussion among the Parties, and if additional agreements are reached, they will be presented to the Board by the Parties at the commencement of the Hearing in this Matter.

Issues pertaining exclusively to customers in Labrador were not addressed in this mediation and are reserved for resolution in hearings scheduled to take place in Labrador.

This Agreement pertains to the Parties’ recommendations in this proceeding and does not preclude Parties from advocating alternative positions on the same or similar issues in other

proceedings as they may deem appropriate. The Agreement does not resolve cost of capital, accounting and related revenue requirement issues in this proceeding.

As a result of this Agreement, reached through the mediation process, the Parties consent to the admission in the record of this case of all prefiled testimony and exhibits pertaining to: (1) cost of service allocation; (2) rate structure design; and (3) tariff rules and regulations, without the calling of witnesses for the purpose of cross-examination insofar as such testimony and exhibits relate to the issues resolved. The consenting Parties recommend that the Board make its determination on these issues based on the Parties' prefiled testimony and exhibits and the Parties' agreed upon proposed resolution of these issues as stated in this Agreement.

**I. Issues on Which All Parties Agree<sup>1</sup>**

- a. Hydro's cost of service (COS) study filed in this proceeding is in general compliance with Board Orders, specifically the June 7, 2002 Order No. P.U. 7 (2002-2003), regarding the use of embedded cost of service studies as a guide in determining the revenue requirement increases or decreases to be applied to each class.
- b. Hydro Place costs should be assigned to all systems as proposed by Hydro.
- c. General plant assets should be functionalized on the basis of direct generation, transmission, distribution and customer expenses rather than plant ratios.
- d. The statement preparation fee should be eliminated from Rural Customers' rates.

---

<sup>1</sup> The thirty issues identified and addressed by the Parties in this Mediation were originally listed and designated "a" through "dd." These same designations have been retained here for ease of reference by the Parties even though the original listing has now been broken into two categories and one issue pertaining to Labrador matters has been dropped from the Mediation.

- e. The Rural Customers name change fee should be reduced from \$14.00 to \$8.00.
- f. The Rural Customer reconnection fee should be extended to apply to requests for reconnection following a request by a landlord to disconnect.
- h. G.S.2.3 and G.S.2.4 customers on the Isolated Systems should be consolidated into the G.S.2.2 rate class.
- i. The proposed three-year phase-in of the demand/energy rate for Rural General Service customers should be implemented, including the elimination of the lifeline block for these customers.
- j. Hydro's Municipal Taxes and Board Assessments should be allocated based on revenues.
- r. The appropriate hydraulic data stream for both hydraulic production projections and RSP calculations is long term. The Parties agree that Hydro has properly filed its case using the 30-year record at this time. The Board may consider using the full historic hydraulic data flow record in Hydro's next GRA after Hydro addresses discrepancies identified in the Acres Island Study and Parties have had an opportunity to comment thereon.
- v. The customer class load forecasts used to allocate Hydro's demand costs should be reviewed and approved (or modified) by the Board based on an evidentiary record.

- w. Industrial Customers (“IC”) demand charges for firm power should be applied to forecasted firm demand (“Power on Order”).
- y. Hydro’s current three block Domestic Diesel rate structure should be replaced with a two block structure with the first block equal to the Alternative Lifeline and the second block set so as to maintain revenue neutrality. Parties further suggest that, before its formal acceptance of this proposal, the Board seek comment on this matter from affected customers during the public participation days in this proceeding.
- z. Hydro will work with the CA to redesign its rural customer survey to gather information on customer valuation of service quality versus the costs incurred to improve and maintain service quality, with the results to be reported to the Board in time for incorporation in Hydro’s 2004 customer survey.
- aa. Hydro will propose a peer group of utilities and measures upon which to compare its performance not later than six months following the date of the Board Order in this proceeding. Upon approval thereof, Hydro will collect and report such measures for itself and the peer group annually beginning in 2005.
- cc. Parties request that the Board prepare or obtain a report on Performance Based Regulation (PBR) alternatives for Hydro and NP, with input solicited from all interested stakeholders prior to finalization of the Report, and opportunity for comment and discussion in considering the final Report.

- dd. Hydro will adjust the Rural Rate Alteration Component of the RSP based on its projection of the 5-year phase-in of Labrador rates and the revenue credit available from secondary energy sales to CFB Goose Bay.

## **II. Issues on Which Parties Disagree**

- k. Should Hydro's wholesale rates to NP include both demand and energy charges or should they remain an energy-only rate?
- l. Should Burin Peninsula transmission assets be assigned to common?
- m. Should GNP generation assets be assigned to common?
- n. Was it appropriate to terminate the Interruptible B Program offering to Abitibi Stephenville?
- o. What is the appropriate treatment of NP thermal Generation in Hydro's COS and rates charged to NP (e.g., NP Generation Credit)?
- p. Should the load variation component of the new RSP be eliminated?
- q. Should the hydraulic production and fuel cost variation components of the RSP be separate funds with different timing of passthrough?
- s. Assuming that the load variation component of the RSP is eliminated, should all riders for the fuel cost and hydraulic funds be applied on an equal KWh basis to all customers?
- t. What interest rate should be used with respect to RSP balances?

- u. Should there be demand charges for interruptible power above the Power on Order for industrial customers?
- x. Should Hydro undertake a marginal cost study and file a report with the Board on how rates can be redesigned to better incorporate marginal cost principles, offer rate options for customers, and promote market efficiency?
- bb. Should Hydro be required to commission an independent study of the merits of creating a separate department responsible for service to Isolated Systems?



Agreed to this 3<sup>rd</sup> day of October, 2003.

For Newfoundland and Labrador Hydro

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For Newfoundland Power Inc. <sup>2</sup>

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For the Consumer Advocate

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For the Industrial Customers <sup>3</sup>

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John W. Wilson, Mediator

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<sup>2</sup> NP's execution is not an acknowledgement that its generation credit is open for consideration in this hearing.

<sup>3</sup> IC takes no position on Issues d, e, f, h, i, y, z or dd.

**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

**ORDER NUMBER: P.U. 14 (2004)**

**APPENDIX I**

**P.U. 34 (2003)**

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

**AND IN THE MATTER OF** an application by Newfoundland and Labrador Hydro (“Hydro”) for approval of, *inter alia*, rates to be charged its customers (the “Application”);

**AND IN THE MATTER OF** a complaint from the Towns of Labrador City and Wabush, that the Rates proposed for Labrador West by Hydro in its Application are discriminatory;

**AND IN THE MATTER OF** a motion by the Towns of Labrador City and Wabush requesting that the hearings in Labrador scheduled to commence on November 3, 2003 be rescheduled to a later date convenient to all parties and the Board.

**Before:**

**Robert Noseworthy**  
**Chair and Chief Executive Officer**

**Darlene Whalen, P. Eng.**  
**Vice-Chair**

**G. Fred Saunders**  
**Commissioner**

1 The Board received a motion from the Towns of Labrador City and Wabush on October 29, 2003  
2 requesting that the hearings in Labrador which were scheduled to begin on November 3, 2003 be  
3 rescheduled to a later date convenient to all the parties. This motion was made to allow time for  
4 the consideration of revised evidence which Hydro intends to file on October 31, 2003.

5  
6 The Board received a response from Hydro on October 30, 2003 asking that the motion be  
7 denied. Newfoundland Power's response stated that it had no position on the motion. Neither  
8 the Industrial Customers nor the Consumer Advocate submitted a formal response to the motion.

9  
10 Hydro noted that the two principal changes arising from the revised evidence affecting Labrador  
11 Interconnected Customers are:

- 12  
13 a) a reduction in the credit from the secondary sales to Five-Wing Goose Bay; and  
14 b) an increase in the operating expense associated with the Wabush Terminal  
15 Station.

16  
17 Hydro argued in its response that the changes which impact on the Towns of Labrador City and  
18 Wabush are not policy related and are not by their nature significant enough to require a  
19 postponement in the hearing. Hydro submitted that a delay is not required to provide adequate  
20 opportunity for the Towns of Labrador City and Wabush to review the revised information and  
21 prepare an appropriate response. Hydro also suggested that based on the current schedule there  
22 is no time readily available before the end of 2003 to hold hearings in Labrador West.

23  
24 A compromise schedule which was circulated by Board Counsel delayed the start of the  
25 Labrador portion of the hearing but generally preserved the hearing schedule. All parties,  
26 including Hydro and the Towns of Labrador City and Wabush indicated, either in writing or  
27 verbally to Board Counsel, that the proposed schedule was acceptable. Newfoundland Power  
28 and the Industrial Customers suggested however that the time allowed for the testimony of the  
29 Cost of Service experts may not be sufficient.

30

1 The Board notes that a general rate application, such as is before it, is a complex and protracted  
2 matter involving forecasts which are often subject to change. As such it is common in this  
3 jurisdiction for a utility throughout such a proceeding to submit updates to the forecasts so that  
4 the Board has the most up to date information when making its decision. While the Board does  
5 not expect that such filings will result in delays, as they may be considered to be a normal part of  
6 such proceedings, the Board recognizes that there are some occasions when a delay may be  
7 warranted.

8  
9 The Board notes that Hydro has indicated that the revised evidence will not be submitted until  
10 Friday, October 31, 2003. Travel to Labrador was scheduled for Sunday, November 2, 2003 with  
11 testimony to begin in Labrador West on Monday, November 3, 2003. Given the travel dates, the  
12 Board must decide this motion immediately, in advance of the parties and the Board having the  
13 opportunity to review the particulars of the changes contained in the evidence.

14  
15 The Board finds that the two issues raised by Hydro may affect Labrador Interconnected  
16 customers both in terms of the specific changes and the overall rate impacts. Because it is not  
17 possible to determine at this stage the impact of the revised evidence and given the timing the  
18 Board finds that a delay is justified under these circumstances. Labrador Interconnected  
19 customers therefore should be allowed adequate opportunity to review the revised filing. Having  
20 considered the motion and the responses of the parties the Board is satisfied that fairness requires  
21 that the proceedings scheduled to commence on November 3, 2003 in Labrador be rescheduled  
22 to a later date consistent with the proposed schedule.

23

24 **IT IS THEREFORE ORDERED THAT:**

25

26 The motion of the Towns of Labrador City and Wabush is hereby granted and the proceedings  
27 scheduled to commence on November 3, 2003 in Labrador are postponed.

DATED at St. John's, Newfoundland and Labrador, this 30<sup>th</sup> day of October 2003.

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Robert Noseworthy,  
Chair & Chief Executive Officer.

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Darlene Whalen, P.Eng.,  
Vice-Chair.

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G. Fred Saunders,  
Commissioner.

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G. Cheryl Blundon,  
Board Secretary.

**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

**ORDER NUMBER: P.U. 14 (2004)**

**APPENDIX J**



**P.U. 40 (2003)**

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

**AND IN THE MATTER OF** an application by Newfoundland and Labrador Hydro (“Hydro”) for approval of, *inter alia*, rates to be charged its customers (the “Application”);

**AND IN THE MATTER OF** proposed amendments to the Rate Stabilization Plan.

**Before:**

**Robert Noseworthy**  
**Chair and Chief Executive Officer**

**Darlene Whalen, P. Eng.**  
**Vice-Chair**

**G. Fred Saunders**  
**Commissioner**

**WHEREAS** Hydro filed the Application with the Board of Commissioners of Public Utilities (the “Board”) on May 21, 2003, which Application was amended on August 12, 2003, for an Order of the Board approving, among other things, the proposed rates for the various customers of Hydro to be effective January 1, 2004; and

**WHEREAS** the registered intervenors for the proceeding are the Consumer Advocate, Mr. Dennis Browne, Q.C.; Newfoundland Power Inc.; Hydro’s Industrial Customers, namely Corner Brook Pulp and Paper Limited, Abitibi Consolidated Company of Canada-Stephenville and Grand Falls Divisions, North Atlantic Refining Limited and Voisey’s Bay Nickel Company Limited; and the Towns of Labrador City and Wabush; and

**WHEREAS** as part of the proceeding the “Participating Parties”, which for the purposes of this Order include Hydro and the registered intervenors, excepting the Towns of Labrador City and Wabush, held settlement discussions with respect to amendments to the Rate Stabilization Plan (the “RSP”); and

**WHEREAS** the RSP is established for two of Hydro’s customers - Newfoundland Power and the Island Industrial customers - to smooth rate impacts for certain variations between actual results and Test Year Cost of Service estimates for (i) hydraulic production; (ii) No. 6 fuel cost used at Hydro’s Holyrood generating station; (iii) customer load (Newfoundland Power and Island Industrial); and (iv) rural rates; and

**WHEREAS** Hydro advised during the hearing that the Participating Parties proposed that the RSP be amended as set out in Sections A, B, C and D of Schedule A to this Order (filed as Consent #2 in the proceeding) and further that, with the exception of the Industrial Customers who took no position, amendments as set out in Section E of Schedule A to this Order (filed as Consent #3 in the proceeding) should be made; and

**WHEREAS** Hydro has requested that the Board issue an Order on the proposed amendments prior to January 1, 2004 since the proposed changes to the RSP would, if accepted by the Board, result in changes to the January 1, 2004 annual RSP adjustment for the Industrial Customers; and

**WHEREAS** the Board has received no objection to the proposed amendments to the RSP set out in Schedule “A” to this Order or to the proposed timing of this Order; and

**WHEREAS** the Board is satisfied that the proposed amendments will not affect the rates charged to the Labrador Interconnected customers of Hydro or otherwise impact the issues to be determined in this Application in respect of the Labrador Interconnected System; and

**WHEREAS** the Board has considered the proposed amendments to the RSP and the relevant evidence and concurs with the amendments as presented; and

**WHEREAS** the Board will address any other specific issues surrounding the RSP, such as the monitoring issues raised during the hearing, as part of the ongoing regulatory supervision of the Board or in the final order flowing from the Application.

**IT IS THEREFORE ORDERED THAT:**

Unless otherwise ordered by the Board, the Rate Stabilization Plan is hereby amended as set out in Schedule "A" effective January 1, 2004.

**DATED** at St. John's, Newfoundland and Labrador, this 16<sup>th</sup> day of December 2003.

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Robert Noseworthy,  
Chair & Chief Executive Officer.

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Darlene Whalen, P.Eng.,  
Vice-Chair.

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G. Fred Saunders,  
Commissioner.

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G. Cheryl Blundon,  
Board Secretary.

**SCHEDULE “A”**

**ORDER NO. P.U. 40 (2003)**

## NEWFOUNDLAND AND LABRADOR HYDRO

### RATE STABILIZATION PLAN

The Rate Stabilization Plan of Newfoundland and Labrador Hydro (Hydro) is established for Hydro's Utility customer, Newfoundland Power, and Island Industrial customers to smooth rate impacts for variations between actual results and Test Year Cost of Service estimates for:

- hydraulic production;
- No. 6 fuel cost used at Hydro's Holyrood generating station;
- customer load (Utility and Island Industrial); and
- rural rates.

The formulae used to calculate the Plan's activity are outlined below. Positive values denote amounts owing from customers to Hydro whereas negative values denote amounts owing from Hydro to customers.

#### **Section A: Hydraulic Production Variation**

##### **1. Activity:**

Actual monthly production is compared with the Test Year Cost of Service Study in accordance with the following formula:

$$\{(A - B) \div C\} \times D$$

Where:

- A = Test Year Cost of Service Net Hydraulic Production (kWh)
- B = Actual Net Hydraulic Production (kWh)
- C = Test Year Cost of Service Holyrood Net Conversion Factor (kWh /bbl.)
- D = Monthly Test Year Cost of Service No. 6 Fuel Cost (\$/Can /bbl.)

##### **2. Financing:**

Each month, financing charges, using Hydro's approved Test Year weighted average cost of capital, will be calculated on the balance.

##### **3. Hydraulic Variation Customer Assignment:**

Customer assignment of hydraulic variations will be performed annually as follows:

$$(E \times 25\%) + F$$

Where:

- E = Hydraulic Variation Account Balance as of December 31, excluding financing charges
- F = Financing charges accumulated to December 31

The total amount of the Hydraulic Customer Assignment shall be removed from the Hydraulic Variation Account.

##### **4. Customer Allocation:**

The annual customer assignment will be allocated among the Island Interconnected customer groups of (1) Newfoundland Power; (2) Island Industrial Firm; and (3) Rural Island



## NEWFOUNDLAND AND LABRADOR HYDRO

### RATE STABILIZATION PLAN (continued)

Interconnected. The allocation will be based on percentages derived from 12 months-to-date kWh for: Utility Firm and Firmed-Up Secondary invoiced energy, Industrial Firm invoiced energy, and Rural Island Interconnected bulk transmission energy.

The portion of the hydraulic customer assignment which is initially allocated to Rural Island Interconnected will be re-allocated between Newfoundland Power and regulated Labrador Interconnected customers in the same proportion which the Rural Deficit was allocated in the approved Test Year Cost of Service Study.

The Newfoundland Power and Island Industrial customer allocations shall be included with the Newfoundland Power and Island Industrial RSP balances respectively as of December 31 each year. The Labrador Interconnected Hydraulic customer allocation shall be written off to Hydro's net income (loss).

### Section B: Fuel Cost Variation, Load Variation and Rural Rate Alteration

#### 1. Activity

##### 1.1. Fuel Cost Variations

This is based on the consumption of No. 6 Fuel at the Holyrood Generating Station:

$$(G - D) \times H$$

Where:

D = Monthly Test Year Cost of Service No. 6 Fuel Cost (\$/Can /bbl.)

G = Monthly Actual Average No. 6 Fuel Cost (\$/Can /bbl.)

H = Monthly Actual Quantity of No. 6 Fuel consumed less No. 6 fuel consumed for non-firm sales (bbl.)

##### 1.2. Load Variations

**Firm:** Firm load variation is comprised of fuel and revenue components. The load variation is determined by calculating the difference between actual monthly sales and the Test Year Cost of service Study sales, and the resulting variance in No. 6 fuel costs and sales revenues. It is calculated separately for Newfoundland Power firm sales and Industrial firm sales, in accordance with the following formula:

$$(I - J) \times \{(D \div C) - K\}$$

Where:

C = Test Year Cost of Service Holyrood Net Conversion Factor (kWh /bbl.)

D = Monthly Test Year Cost of Service No. 6 Fuel Cost (\$/Can /bbl.)

I = Actual Sales, by customer class (kWh)

J = Test Year Cost of Service Sales, by customer class (kWh)

K = Firm energy rate, by customer class

**Secondary:** Secondary load variation is based on the revenue variation for Utility Firmed-Up Secondary energy sales compared with the Test Year Cost of Service Study, in accordance with the following formula:



**NEWFOUNDLAND AND LABRADOR HYDRO**

**RATE STABILIZATION PLAN (continued)**

$$(J - I) \times L$$

Where:

I = Actual Sales (kWh)

J = Test Year Cost of Service Sales (kWh)

L = Secondary Energy Firming Up Charge

**1.3. Rural Rate Alteration**

- (a) Newfoundland Power Rate Change Impacts:

This component is calculated for Hydro's rural customers whose rates are directly or indirectly impacted by Newfoundland Power's rate changes, with the following formula:

$$(M - N) \times O$$

Where:

M = Cost of Service rate <sup>1</sup>

N = Existing rate

O = Actual Units (kWh, bills, billing demand)

- (b) Rural Labrador Interconnected Automatic Rate Adjustments:

This component reflects the impact of the automatic rate adjustments for Hydro's rural customers on the Labrador Interconnected system, which arise from the five-year phase-in of the application of the credit from secondary energy sales to CFB Goose Bay to the rural deficit.

Monthly adjustments commence January, 2005, and will be subject to revision when a new Test Year Cost of Service is approved by the Public Utilities Board for Hydro. The amount of the automatic rate adjustment is calculated as follows:

$$P = (Q - R) \div 12$$

Where:

P = the monthly amount of the automatic rate adjustment

Q = the CFB Revenue Credit applied to the rural deficit in Hydro's Final 2004 Test Year Cost of Service

R = the CFB Revenue Credit applied to the rural deficit in 2005 to 2008, included in existing rates and outlined in the table below:

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<sup>1</sup> Hydro's schedule of rates for its rural customers impacted by Newfoundland Power's rate changes as a result of the pass-through of Hydro's rate changes associated with the Test Year Cost of Service Study.



**NEWFOUNDLAND AND LABRADOR HYDRO**

**RATE STABILIZATION PLAN (continued)**

	<b>Q</b>	<b>R</b>	<b>Q – R</b>	<b>P</b>
2005	\$ 0	\$445,722	(\$445,722)	(\$37,143)
2006	\$ 0	\$593,461	(\$593,461)	(\$49,455)
2007	\$ 0	\$1,477,393	(\$1,477,393)	(\$123,116)
2008 <sup>2</sup>	\$ 0	\$2,504,056	(\$2,504,056)	(\$208,671)

**2. Monthly Customer Allocation: Load and Fuel Activity**

Each month, the load variation will be assigned to the customer class for which the load variation occurred.

Each month, the year-to-date total for fuel price variation will be allocated among the Island Interconnected customer groups of (1) Newfoundland Power; (2) Island Industrial Firm; and (3) Rural Island Interconnected. The allocation will be based on percentages derived from 12 months-to-date kWh for: Utility Firm and Firmed-Up Secondary invoiced energy, Industrial Firm invoiced energy, and Rural Island Interconnected bulk transmission energy.

The year-to-date portion of the fuel price variation which is initially allocated to Rural Island Interconnected will be re-allocated between Newfoundland Power and regulated Labrador Interconnected customers in the same proportion which the Rural Deficit was allocated in the approved Test Year Cost of Service Study.

The current month's activity for Newfoundland Power, Island Industrials and regulated Labrador Interconnected customers will be calculated by subtracting year-to-date activity for the prior month from year-to-date activity for the current month. The current month's activity allocated to regulated Labrador Interconnected customers will be removed from the Plan and written off to Hydro's net income (loss).

**3. Monthly Customer Allocation: Rural Rate Alteration Activity**

Each month, the rural rate alteration will be allocated between Newfoundland Power and regulated Labrador Interconnected customers in the same proportion which the Rural Deficit was allocated in the approved Test Year Cost of Service Study. The portion allocated to regulated Labrador Interconnected will be removed from the Plan and written off to Hydro's net income (loss).

**4. Plan Balances**

Separate plan balances for Newfoundland Power and for the Island Industrial customer class will be maintained. Financing charges on the plan balances will be calculated monthly using Hydro's approved Test Year weighted average cost of capital.

**Section C: Fuel Price Projection**

A fuel price projection will be calculated to anticipate forecast fuel price changes and to determine fuel riders for the rate adjustments. For industrial customers, this will occur in October each year,

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<sup>2</sup> Monthly adjustments will continue after 2008 until a new Test Year Cost of Service is approved by the Public Utilities Board.

**NEWFOUNDLAND AND LABRADOR HYDRO**

**RATE STABILIZATION PLAN (continued)**

for inclusion with the RSP adjustment effective January 1. For Newfoundland Power, this will occur in April each year, for inclusion with the RSP adjustment effective July 1.

**1. Industrial Fuel Price Projection:**

In October each year, a fuel price projection for the following January to December shall be made to estimate a change from Test Year No. 6 Fuel Cost. Hydro's projection shall be based on the change from the average Test Year No. 6 fuel purchase price, in Canadian dollars per barrel, determined from the forecast oil prices provided by the PIRA Energy Group, and the current US exchange rate. The calculation for the projection is:

$$[\{(S - T) \times U\} - V] \times W$$

Where:

S = the September month-end PIRA Energy Group average monthly forecast for No. 6 fuel prices at New York Harbour for the following January to December

T = Hydro's average Test Year contract discount (US \$/bbl)

U = the monthly average of the \$Cdn / \$US Bank of Canada Noon Exchange Rate for the month of September

V = average Test Year Cost of Service purchase price for No. 6 Fuel (\$Can /bbl.)

W = the number of barrels of No. 6 fuel forecast to be consumed at the Holyrood Generating Station for the Test Year.

The industrial customer allocation of the forecast fuel price change will be based on 12 months-to-date kWh as of the end of September and is the ratio of Industrial Firm invoiced energy to the total of: Utility Firm and Firmed-Up Secondary invoiced energy, Industrial Firm invoiced energy, and Rural Island Interconnected bulk transmission energy.

The amount of the forecast fuel price change, in Canadian dollars, and the details of an estimate of the fuel rider based on 12 months-to-date kWh sales to the end of September will be reported to industrial customers, Newfoundland Power, and the Public Utilities Board, by the 10<sup>th</sup> working day of October.

**2. Newfoundland Power Fuel Price Projection:**

In April each year, a fuel price projection for the following July to June shall be made to estimate a change from Test Year No. 6 Fuel Cost. Hydro's projection shall be based on the change from the average Test Year No. 6 fuel purchase price, in Canadian dollars per barrel, determined from the forecast oil prices provided by the PIRA Energy Group, and the current US exchange rate. The calculation for the projection is:

$$[\{(X - T) \times Y\} - V] \times W$$

Where:

T = Hydro's average Test Year contract discount (US \$/bbl)

**NEWFOUNDLAND AND LABRADOR HYDRO**

**RATE STABILIZATION PLAN (continued)**

- V = average Test Year Cost of Service purchase price for No. 6 Fuel (\$Can /bbl.)
- W = the number of barrels of No. 6 fuel forecast to be consumed at the Holyrood Generating Station for the Test Year.
- X = the average of the March month-end PIRA Energy Group average monthly forecast for No. 6 fuel prices at New York Harbour for the following July to December, and the most recent long-term PIRA Energy Group average annual forecast for No. 6 fuel prices at New York Harbour for the following January to June.
- Y = the monthly average of the \$Cdn / \$US Bank of Canada Noon Exchange Rate for the month of March.

The Newfoundland Power customer allocation of the forecast fuel price change will be based on 12 months-to-date kWh as of the end of March and is the ratio of Newfoundland Power Firm and Firmed-Up Secondary invoiced energy to the total of: Utility Firm and Firmed-Up Secondary invoiced energy, Industrial Firm invoiced energy, and Rural Island Interconnected bulk transmission energy.

The amount of the forecast fuel price change, in Canadian dollars, and the details of the resulting fuel rider applied to the adjustment rate will be reported to Newfoundland Power, industrial customers, and the Public Utilities Board, by the 10<sup>th</sup> working day of April.

**Section D: Adjustment**

**1. Newfoundland Power**

As of March 31 each year, Newfoundland Power's adjustment rate for the 12-month period commencing the following July 1 is determined as the rate per kWh which is projected to collect:

Newfoundland Power March 31 Balance

less projected recovery / repayment of the balance for the following three months (if any), estimated using the energy sales (kWh) for April, May and June from the previous year

plus forecast financing charges to the end of the 12-month recovery period (i.e., June in the following calendar year),

divided by the 12-months-to-date firm plus firmed-up secondary kWh sales to the end of March.

A fuel rider shall be added to the above adjustment rate, based on the Newfoundland Power Fuel Price Projection amount (as per Section C.2 above) divided by 12-months-to-date kWh sales to the end of March.

Where a new Test Year comes into effect while there is an existing fuel rider in place, the fuel rider portion of the RSP Adjustment will be set to zero upon implementation of the new Test Year Cost of Service rates, until the time for the next fuel price projection.

**2. Island Industrial Customers**



**NEWFOUNDLAND AND LABRADOR HYDRO**

**RATE STABILIZATION PLAN (continued)**

As of December 31 each year, the adjustment rate for industrial customers for the 12-month period commencing January 1 is determined as the rate per kWh which is projected to collect:

Industrial December 31 Balance

plus forecast financing charges to the end of the following calendar year,

divided by 12-months-to-date kWh sales to the end of December.

A fuel rider shall be added to the above adjustment rate, based on the Industrial Fuel Price Projection (as per Section C.1 above) amount divided by 12-months-to-date kWh sales to the end of December.

Where a new Test Year comes into effect while there is an existing fuel rider in place, the fuel rider portion of the RSP Adjustment will be set to zero upon implementation of the new Test Year Cost of Service rates, until the time for the next fuel price projection.

## NEWFOUNDLAND AND LABRADOR HYDRO

### RATE STABILIZATION PLAN

#### Section E: Historical Plan Balances:

##### 1. **August 2002 Balance:**

Newfoundland Power and Island Industrial customer balances accumulated in the Plan as at August 2002 will be recovered over a 5-year collection period, with adjustment rates established each December 31, commencing December 31, 2002. Financing charges on the plan balances will be calculated monthly using Hydro's approved Test Year annual weighted average cost of capital.

##### **Newfoundland Power**

The adjustment rate for each year of the five-year adjustment period will be determined as follows:

$$A = (B - C + D) \div E \div F$$

where

A = adjustment rate (\$ per kWh) for the 12-month period commencing the following July 1.

B = Balance December 31

C = projected recovery to the following June 30 (if any), estimated using the most recent energy sales (kWh) for the period January to June.

D = projected financing charges to the following June 30

E = number of years remaining in the adjustment period

F = energy sales (kWh) (firm and firm-up secondary) to Newfoundland Power for the most recent 12 months ended December 31

Recovery and financing will be applied to the balance each month. At the end of the five-year recovery period, any remaining balance will be added to the plan then in effect.

##### **Island Industrial Customers**

The adjustment rate for each year of the five-year adjustment period will be determined as follows:

$$G = H \div I \div J$$

where

G = adjustment rate (\$ per kWh) for the 12-month period commencing the following January 1.

H = Balance December 31

I = number of years remaining in the adjustment period

J = firm energy sales (kWh) to Industrial Customers for the most recent 12 months ended December 31

Recovery and financing will be applied to the balance each month. At the end of the five-year recovery period, any remaining balance will be added to the plan then in effect.



**NEWFOUNDLAND AND LABRADOR HYDRO**

**RATE STABILIZATION PLAN (continued)**

**2. RSP Balance, December 31, 2003:**

Newfoundland Power and Island Industrial customer balances accumulated in the Plan as at December 31, 2003 will be consolidated with the outstanding August 2002 customer balances as of December 31, 2003, and will be included with the Newfoundland Power and Island Industrial customer balances respectively for rate-setting purposes as of December 31, 2003.



*Newfoundland & Labrador*

**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**  
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