

**NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

AN ORDER OF THE BOARD

NO. P. U. 25(2011)

1 **IN THE MATTER OF** the *Electrical Power*
2 *Control Act, 1994*, SN 1994, Chapter E-5.1 (the
3 “*EPCA*”) and the *Public Utilities Act*, RSNL 1990,
4 Chapter P-47 (the “*Act*”) as amended;

5
6 **AND**
7

8 **IN THE MATTER OF** an automatic
9 adjustment formula for fixing and
10 determining the rate of return on rate
11 base for Newfoundland Power Inc.

12
13
14 **WHEREAS** Newfoundland Power Inc. (“Newfoundland Power”) is a corporation duly organized
15 and existing under the laws of the Province of Newfoundland and Labrador, is a public utility within
16 the meaning of the *Act*, and is also subject to the provisions of the *EPCA*; and

17
18 **WHEREAS** by Order Nos. P.U. 16(1998-99) and P.U. 36(1998-99) the Board established the
19 Automatic Adjustment Formula for fixing and determining the annual rate of return on rate base for
20 Newfoundland Power in years following a test year (the “Formula”); and

21
22 **WHEREAS** by Order Nos. P.U. 19(2003) and P.U. 32(2007) the Board approved the continued use
23 of the Formula with certain modifications; and

24
25 **WHEREAS** by Order No. P.U. 43(2009) the Board ordered the further continued use of the Formula
26 for 2011 and 2012 with modifications and further ordered that Newfoundland Power:

- 27
28 (a) “...*apply no later than November 30th in each of 2010 and 2011 for the application of the*
29 *Automatic Adjustment Formula to the rate of return on rate base*”, and
30 (b) “...*file its next general rate application with the Board no later than May 31, 2012 with a*
31 *2013 test year.*”

1 unless otherwise ordered by the Board; and

2
3 **WHEREAS** by Order No. P. U. 12(2010) the Board approved certain modifications to the Formula;
4 and

5
6 **WHEREAS** by Order No. P. U. 32(2010) the Board approved a rate of return on rate base for
7 Newfoundland Power for 2011 of 7.96% in a range of 7.78% to 8.14% which reflected a regulated
8 return on equity of 8.38% as established by the Formula; and

9
10 **WHEREAS** on November 23, 2011 Newfoundland Power submitted an application (the
11 “Application”) proposing that the Board make an Order:

- 12
13 (a) suspending the operation of the Formula to establish a rate of return on rate base for
14 Newfoundland Power for 2012;
- 15 (b) approving, on an interim basis, the continued use of the current rate of return on rate
16 base for Newfoundland Power of 7.96% in a range of 7.78% to 8.14% until
17 Newfoundland Power’s next general rate application;
- 18 (c) approving, on an interim basis, the continued use of the current Customer Rates
19 approved by Order No. P. U. 12(2011) with effect from January 1, 2012;
- 20 (d) establishing the process to be followed to determine a just and reasonable rate of
21 return on rate base for Newfoundland Power for 2012; and

22
23 **WHEREAS** Newfoundland Power filed evidence in support of the Application which included a
24 report from cost of capital expert, Kathleen McShane; and

25
26 **WHEREAS** Newfoundland Power states that the operation of the Formula will provide
27 Newfoundland Power with an opportunity to earn a return on rate base which reflects a regulated
28 return on equity of 7.85% for 2012; and

29
30 **WHEREAS** on November 25, 2011 the Board requested that the Consumer Advocate and
31 Newfoundland and Labrador Hydro (“Hydro”) provide comments on the Application to the Board
32 by December 1, 2011; and

33
34 **WHEREAS** on December 1, 2011 the Consumer Advocate filed submissions and evidence which
35 included a report from cost of capital expert, Dr. Lawrence Booth, and advised the Board that the
36 Consumer Advocate would not take issue with the Application at this time; and

37
38 **WHEREAS** Hydro advised the Board by letter dated December 1, 2011 that it had no comments on
39 the Application; and

40
41 **WHEREAS** Section 80 of the *Act* provides, in effect, that Newfoundland Power is entitled annually
42 to the opportunity to earn a fair return on its investment to provide regulated service to its customers;
43 and

44

1 **WHEREAS** the Board has reviewed the Application and supporting documentation and
2 considered the evidence and submissions of the Consumer Advocate and is satisfied that it should
3 make the following Order.
4
5

6 **IT IS THEREFORE ORDERED THAT:**
7

- 8 1. The operation of the Formula to establish a rate of return on rate base for Newfoundland
9 Power for 2012 is suspended.
10
- 11 2. The continued use of the current rate of return on rate base for Newfoundland Power of
12 7.96% in a range of 7.78% to 8.14% until a further Order of the Board is approved on an
13 interim basis.
14
- 15 3. The continued use of the current Customer Rates approved by Order No. P. U. 12(2011) is
16 approved on an interim basis, with effect from January 1, 2012.
17
- 18 4. The process and timing to be followed to determine a just and reasonable rate of return on
19 rate base for Newfoundland Power for 2012 and with respect to the filing of Newfoundland
20 Power's next general rate application shall be established by a further direction of the Board.
21
- 22 5. Newfoundland Power shall pay all expenses of the Board arising from this Application.

DATED at St. John's, Newfoundland and Labrador, this 13th day of December 2011.

Andy Wells
Chair & Chief Executive Officer

Darlene Whalen, P.Eng.
Vice-Chair

Dwanda Newman, LL.B.
Commissioner

James Oxford
Commissioner

Cheryl Blundon
Board Secretary