



Newfoundland Power Inc.

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HAND DELIVERED

August 31, 2012

Board of Commissioners
of Public Utilities
P.O. Box 21040
120 Torbay Road
St. John's, NL A1A 5B2

Attention: G. Cheryl Blundon
Director of Corporate Services
and Board Secretary

Ladies & Gentlemen:

Re: Newfoundland Power's 2013 Capital Budget Application

Enclosed are the original and 11 copies of Newfoundland Power's Brief of Argument.

For convenience, the Argument is provided on three-hole punched paper.

A copy of this letter, together with enclosures, has been forwarded directly to Geoffrey Young, of Newfoundland and Labrador Hydro and Mr. Thomas Johnson, the Consumer Advocate.

If you have any questions regarding the enclosed, please contact the undersigned at your convenience.

Yours very truly,

Gerard M. Hayes
Senior Counsel

Enclosures

c. Geoffrey Young
Newfoundland and Labrador Hydro

Thomas Johnson
O'Dea Earle Law Offices



IN THE MATTER OF the *Public Utilities Act*, (the "Act"); and

IN THE MATTER OF capital expenditures and rate base of Newfoundland Power Inc.; and

IN THE MATTER OF an application by Newfoundland Power Inc. for an order pursuant to Sections 41 and 78 of the Act:

- (a) approving a 2013 Capital Budget of \$80,788,000;
- (b) approving certain capital expenditures related to multi-year projects commencing in 2013; and
- (c) fixing and determining a 2011 rate base of \$876,356,000.

**BRIEF OF ARGUMENT
OF
NEWFOUNDLAND POWER INC.**

AUGUST 31, 2012

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1 **1.0 INTRODUCTION**

2 Newfoundland Power's 2013 Capital Budget was filed with the Board of Commissioners of
3 Public Utilities (the "Board") on June 28, 2012. The \$80.8 million budget is larger than the 2012
4 Capital Budget, principally due to the requirement to purchase a mobile substation and to comply
5 with federal government regulations respecting PCBs.

6

7 The 2013 Capital Budget Application (the "Application") seeks an Order of the Board:
8 (i) pursuant to Section 41(1) of the *Public Utilities Act*, approving proposed 2013 capital
9 expenditures totalling \$80,788,000; (ii) pursuant to Section 41(1) of the *Public Utilities Act*,
10 approving proposed 2014 capital expenditures of \$3,853,000 and (iii) pursuant to Section 78 of
11 the *Public Utilities Act*, fixing and determining Newfoundland Power's average rate base for 2011
12 in the amount of \$876,356,000.

13

14 **2.0 OVERVIEW**

15 To provide context for the Board's consideration of the Application, this submission will:

16

17 First, review the legislative framework under which the Application is brought;

18

19 Second, address specific compliance requirements;

20

21 Third, summarize the process engaged in by the Board and participants in the consideration of the
22 Application;

23

24 Fourth, address matters raised in the Consumer Advocate's Submission; and

- 1 Finally, conclude with Newfoundland Power's formal submissions with respect to the
- 2 Application.

3

4 **3.0 LEGISLATIVE FRAMEWORK**

5 Section 37(1) of the *Public Utilities Act* states that a public utility shall provide service and
6 facilities that are reasonably safe and adequate and just and reasonable. Section 37(1) is a
7 cornerstone of Newfoundland Power's obligation to serve its customers.

8

9 Section 3(b) of the *Electrical Power Control Act, 1994* states that all sources and facilities for the
10 production, transmission, and distribution of power in the province should be managed and
11 operated in a manner that would result in:

- 12 i. the most efficient production, transmission, and distribution of power,
- 13 ii. consumers in the province having equitable access to an adequate supply of power,
14 and
- 15 iii. power being delivered to customers in the province at the lowest possible cost
16 consistent with reliable service.

17

18 Section 3(b) does not create a hierarchy between these three principles; rather, each is equally
19 important in the management and operation of electrical facilities in the province.

20

21 Section 41(1) of the *Public Utilities Act* requires that Newfoundland Power submit to the Board
22 "an annual capital budget of proposed improvements and additions to its property" for the
23 Board's approval.

1 Section 41(3) of the *Public Utilities Act* prohibits a utility from proceeding with an improvement
2 or addition in excess of \$50,000 or a lease in excess of \$5,000 per year without the Board's prior
3 approval.

4

5 The principal focus of this proceeding is whether Newfoundland Power's proposal for \$80.8
6 million in capital expenditures in 2013 is reasonably required for it to meet its statutory obligation
7 to serve its approximately 249,000 customers.

8

9 Newfoundland Power submits that its 2013 Capital Budget represents the capital expenditures
10 necessary to maintain its electrical system and to continue to meet its statutory obligations under
11 Section 37(1) of the *Public Utilities Act* and Section 3(b) of the *Electrical Power Control Act*,
12 1994.

13

14 **4.0 COMPLIANCE MATTERS**

15 **4.1 Board Orders**

16 In Order No. P.U. 26 (2011) (the "2012 Capital Order"), the Board required specific information
17 to be filed with the Application. The Application complies with the requirements of the 2012
18 Capital Order.

19

20 In Order No. P.U. 35 (2003) (the "2004 Capital Order"), the Board required specific information,
21 and in particular a 5-year capital plan, to be provided with the Application. The Application
22 complies with the requirements of the 2004 Capital Order.

1 In Order No. P.U. 19 (2003) (the “2003 Rate Order”), the Board required that evidence relating to
2 deferred charges and a reconciliation of average rate base to invested capital be filed with the
3 Application. The Application complies with the requirements of the 2003 Rate Order.

4

5 In Order No. P.U. 32 (2007) (the “2008 Rate Order”), the Board approved Newfoundland
6 Power’s calculation of rate base in accordance with the Asset Rate Base Method. The
7 Application complies with the requirements of the 2008 Rate Order.

8

9 ***4.2 The Capital Budget Application Guidelines***

10 In the Capital Budget Application Guidelines dated October 2007 (the “CBA Guidelines”), the
11 Board outlined certain directions on how to define and categorize capital expenditures. Although
12 compliance with the CBA Guidelines necessarily requires the exercise of a degree of judgment,
13 the Application, in Newfoundland Power’s view, complies with the CBA Guidelines while
14 remaining reasonably consistent and comparable with past filings.

15

16 Section 2 of the *2013 Capital Plan* provides a breakdown of the 2013 Capital Budget by
17 definition, classification, costing method and materiality segmentation as required in the CBA
18 Guidelines.

19

20 **5.0 PROCESS**

21 ***5.1 Proceedings of Record***

22 On July 20, 2012, the Consumer Advocate issued 80 Requests for Information (“RFI’s”) to
23 Newfoundland Power. On July 24, 2012, the Board issued 9 RFIs. Newfoundland Power
24 responded to the 89 RFIs on August 3, 2012.

1 No intervenor evidence was filed in the proceeding, and no intervenor requested a technical
2 conference or formal hearing of the Application.

3

4 **5.2 *Consumer Advocate's Submission***

5 The Consumer Advocate filed written submissions in the proceeding on August 27, 2012. The
6 written submissions addressed the justification for (1) the Customer Call Back Technology and
7 Group Billing Enhancements portions of the *Application Enhancements* project, (2) the
8 refurbishment of the Kenmount Road Building washrooms included in the *Company Building*
9 *Renovations* project, and (3) the replacement of the Soldiers Pond Dam outlet structure included
10 in the *Facility Rehabilitation* project.

11

12 Following is Newfoundland Power's response to the Consumer Advocate's Submission.

13

14 **6.0 *RESPONSE TO CONSUMER ADVOCATE'S SUBMISSION***

15 **6.1 *Customer Call Back Technology***

16 The *Application Enhancements* project includes the introduction of customer call-back technology,
17 also known as *virtual hold*, to Newfoundland Power's Customer Contact Centre ("CCC") at a cost of
18 \$170,000.

19 Reference: 2013 Capital Budget Application, Schedule B, page 79 of 93; *7.1 2013 Application*
20 *Enhancements*, page 6.

21

22 This technology will provide customers with an alternative to waiting on the phone when CCC call
23 volumes are high or CCC agents are handling higher priority calls, thereby improving customer
24 service and increasing customer satisfaction. It will lower operating costs by reducing

1 Newfoundland Power's overall requirement for temporary labour in the CCC and reducing long
2 distance phone charges related to customers waiting in the call queue.

3 Reference: *7.1 2013 Application Enhancements*, pages 6 – 7; Response to CA NP 069.

4

5 The Consumer Advocate's submission questions whether this technology will reduce the
6 Company's overall requirement for temporary labour.

7 Reference: Consumer Advocate's Submission, page 3.

8

9 The CCC is staffed based on expected customer call volumes and cyclical patterns. Temporary
10 employees are called in to offset shortfalls in regular staff availability. The *virtual hold*
11 technology will improve the Company's ability to effectively match staffing levels with average
12 call volume, based on historical trends, which will tend to reduce the overall requirement for
13 temporary labour.

14 Reference: *7.1 2013 Application Enhancements*, page 7; Response to CA NP 069.

15

16 The CBA Guidelines state that, in relation to Justifiable expenditures, a utility must show all
17 reasonable alternatives, including deferral, have been considered and that the expenditure will
18 provide tangible benefits to ratepayers, such as information showing a positive net present value
19 ("NPV") or the proposed resolution to an identified deficiency.

20 Reference: CBA Guidelines, October 2007, page 6 of 11.

21

22 The Customer Call Back Technology project has a positive NPV of approximately \$62,000 over an
23 expected application life-cycle of 7 years.

24 Reference: *7.1 2013 Application Enhancements*, page 7.

1 There is no evidence in the record of this proceeding that there are reasonable alternatives to the
2 introduction of customer call back technology in the CCC that have not been considered by
3 Newfoundland Power. This item is justified as described in the Application, based upon
4 improvements in customer service and operational efficiencies. As established by the positive
5 NPV analysis, deferral of this expenditure would impose greater costs on customers than
6 proceeding with the project.

7

8 Newfoundland Power submits that the Customer Call Back Technology portion of the *Application*
9 *Enhancements* project is justified as described in the Application, and should be approved by the
10 Board.

11

12 ***6.2 Group Billing Enhancements***

13 The *Application Enhancements* project includes Group Billing Enhancements that will improve
14 Newfoundland Power's ability to respond to requests for alternate billing programs (consolidated, or
15 group, billing) for customers with multiple accounts at a cost of \$116,000.

16 Reference: 2013 Capital Budget Application, Schedule B, page 79 of 93; *7.1 2013 Application*
17 *Enhancements*, page 8.

18

19 Components of the Group Billing program are approximately 20 years old and are difficult to tailor
20 to the individual requirements of large customers. The manual revision of bills to meet the needs of
21 group billing customers requires significant effort by CCC staff on a daily basis. Addressing the
22 shortcomings in the Group Billing program and consolidating group billing programs will eliminate
23 the manual effort required to customize electricity bills and attachments for customers with multiple

1 accounts. It will reduce customer contacts and improve customer satisfaction and will also reduce
2 the amount and complexity of software to be maintained.

3 Reference: *7.1 2013 Application Enhancements*, page 8.

4

5 The Consumer Advocate submits that if the current system is working with little issue, there is no
6 need to move to an automated service at this time, that the current system is working for
7 customers with multiple accounts with no complaint, and that the billing system is preferred by
8 the customers as it currently exists. The submission appears to be based on a statement contained
9 in the response to CA NP 073. That response states that “[d]espite the limitations of a 20 year old
10 Customer Services System and compared to receiving multiple bills each billing period for
11 various different premises, the consolidated bill currently provided is preferred by [group billing]
12 customers.” The statement indicates that the group billing customers prefer group (consolidated)
13 billing to multiple bills, despite the limitations of the current system; it does not mean that
14 customers have a preference for a system with the limitations that the Group Billing
15 Enhancements are intended to address.

16 Reference: Consumer Advocate’s Submission, page 4; Response to CA NP 073.

17

18 The Consumer Advocate submits that it does not appear to be the case that staff must expend
19 “significant effort on a daily basis” to address any changes. The basis for this assertion is not
20 explicitly stated. The Consumer Advocate cites the responses to CA NP 071 and 073 in support of
21 the proposition that bill revisions associated with group billing “are not monthly occurrences.”

22 Reference: Consumer Advocate’s Submission, page 4.

1 Group billing is currently offered to approximately 300 customers with approximately 6,500
2 accounts. These customers account for approximately \$58 million in annual electricity billings.
3 Newfoundland Power's response to CA NP 071 describes the Group Billing process generally, and
4 also describes the circumstances where manual intervention by Customer Relations staff is required.
5 The response to CA NP 073 indicates that the level of service to most Group Bill customers meets
6 their needs, and that automating the manual part of the process will reduce the manual effort by
7 Customer Relations staff and allow more customers to take advantage of group billing. There is
8 nothing in either response that indicates such manual intervention does not occur on a daily basis, as
9 stated in Newfoundland Power's evidence.

10 Reference: *7.1 2013 Application Enhancements*, page 8; Response to CA NP 071.

11

12 The Group Billing Enhancements project has a positive NPV of approximately \$27,000 over an
13 expected application life-cycle of 5 years.

14 Reference: *7.1 2013 Application Enhancements*, page 8.

15

16 There is no evidence in the record of this proceeding that there are reasonable alternatives to the
17 Group Billing Enhancements that have not been considered by Newfoundland Power. This item
18 is justified as described in the Application, based upon improvements in customer service and
19 operational efficiencies. As established by the positive NPV analysis, deferral of this expenditure
20 would impose greater costs on customers than proceeding with the project.

21

22 Newfoundland Power submits that the Group Billing Enhancements portion of the *Application*
23 *Enhancements* project is justified, and should be approved by the Board.

1 **6.3 Kenmount Road Building Washroom Refurbishment**

2 The *Company Building Renovations* project includes a proposed expenditure of \$134,000 to
3 refurbish all 8 washrooms in the Kenmount Road building.

4 Reference: 2013 Capital Budget Application, Schedule B, page 65 of 93; Response to CA NP
5 060.

6

7 With the exception of minor accessibility modifications, the washroom finishes and fixtures are
8 original. Four of the washrooms were constructed in 1968; the other four in 1979. The washroom
9 components are worn and deteriorated, and the washrooms require a complete retrofit, including
10 replacing tiles and fixtures and upgrading the plumbing and ventilation.

11 Reference: *5.1 2013 Company Building Renovations*, page 2; Response to CA NP 061.

12

13 The Consumer Advocate submits that the Application submission with respect to the proposed
14 washroom refurbishment does not indicate that the bathroom facilities are not functional and
15 identifies a number of questions that, it is implied, ought to have been answered during the
16 proceeding.

17 Reference: Consumer Advocate's Submission, page 5.

18

19 The information submitted with the Application with respect to the proposed washroom
20 refurbishment fully described the reasons for the project, and was sufficient to enable interested
21 parties to request further information through RFIs, including such questions as have been identified
22 in the Consumer Advocate's Submission. The Consumer Advocate did not ask those questions
23 during the time provided for RFIs in the schedule established by the Board for the Application
24 proceeding. Raising questions after the evidentiary phase of the proceeding has concluded is not

1 consistent with the orderly and efficient hearing of the Application as provided for by the CBA
2 Guidelines.

3
4 The Consumer Advocate submits that it appears from the information provided that the majority of
5 the proposed expenditure on the washroom refurbishment is for cosmetic reasons.
6 Reference: Consumer Advocate's Submission, page 5.

7
8 It is Newfoundland Power's uncontroverted evidence in this proceeding that, due to wear and
9 deterioration, the washrooms (4 of which are 44 years old, and the remainder of which are 33 years
10 old) require the replacement of tiles and fixtures and the upgrading of the plumbing and ventilation.
11 There is no evidence on the record of this proceeding that the washroom refurbishment is primarily
12 required for cosmetic reasons.

13 Reference: *5.1 2013 Company Building Renovations*, page 2; Response to CA NP 061.

14
15 Newfoundland Power submits that the refurbishment of its Kenmount Road Building washrooms
16 proposed as part of the *Company Building Renovations* project is justified based on identified need
17 as described in the Application, and should be approved by the Board.

18
19 **6.4 Soldiers Pond Outlet Replacement**
20 The *Facility Rehabilitation* project includes a proposed expenditure of \$225,000 to replace the outlet
21 structure at Soldiers Pond.
22 Reference: 2013 Capital Budget Application, Schedule B, page 2 of 93; *1.1 2013 Facility*
23 *Rehabilitation*, page 5.

1 Newfoundland Power proposes to replace the entire outlet structure, including the existing timber
2 gate structure and the rock gabion wing walls. The lower sections of the gabion wing walls have
3 corroded and are losing ballast, and there is a risk of collapse as the corrosion becomes more
4 prevalent. In addition, the existing structure cannot accommodate safety railings which, in
5 accordance with the Canadian Dam Association Guidelines for Public Safety, ought to be provided
6 where there is a risk of a vertical fall of 3 metres.

7 Reference: *1.1 2013 Facility Rehabilitation*, page 5; Response to CA NP 022.

8
9 Shoring up the gabion wing walls is not a reasonable option. Newfoundland Power has determined
10 that, due to the excessive corrosion, the walls require replacement to prevent the risk of them
11 toppling over.

12 Reference: Response to CA NP 023.

13
14 The Consumer Advocate submits that there is no evidence that the existing timber structure is
15 deteriorated and questions the need for its replacement at this time. The Consumer Advocate
16 acknowledges the deterioration of the lower sections of the gabion wing walls. The Consumer
17 Advocate submits that only the work that is necessary to make the structure operational should be
18 approved, and that the work and expenditures in relation to the existing timber outlet structure not be
19 approved.

20 Reference: Consumer Advocate's Submission, pages 5 - 6.

21
22 The engineering report submitted in support of the *Facility Rehabilitation* project recommends
23 replacement of the entire Soldiers Pond outlet structure to ensure the continued provision of safe,

1 reliable generating plant operations.¹ The report states that there are no feasible alternatives to its
2 recommendations. No question was raised during the evidentiary phase of the proceeding regarding
3 the possible replacement of only the gabion wing walls. There is no evidence on the record of this
4 proceeding that providing an outlet structure with a more robust wing wall design can be feasibly
5 accomplished without replacing the entire outlet structure, or that such alternative ought to have
6 been considered.

7 Reference: *1.1 2013 Facility Rehabilitation.*

8

9 Newfoundland Power submits that the replacement of the Soldiers Pond Outlet proposed as part of
10 the *Facility Rehabilitation* project is justified as described in the Application, and should be
11 approved by the Board.

12

13 **7.0 CONCLUSIONS**

14 **7.1 Capital Projects**

15 **7.1.1 General**

16 The projects presented in Newfoundland Power's 2013 Capital Budget Application are necessary
17 to: respond to customer growth and changes in customer requirements; replace deteriorated,
18 defective or obsolete equipment; respond to legislative and regulatory requirement; address safety
19 and environmental issues; and maintain or improve customer service levels and operational
20 efficiency gains.

¹ The entire outlet structure will be replaced with a monolithic concrete structure with an expected life of 50 years.

1 With the exception of the matters raised in the Consumer Advocate's Submission, which matters
2 are addressed above, no specific challenge has been made to the numerous engineering judgments
3 and assessments that form the basis of the capital expenditures proposed in Newfoundland
4 Power's 2013 Capital Budget.

5

6 Newfoundland Power's proposed capital expenditures for 2013 are necessary to provide service
7 to customers that is safe and adequate and just and reasonable, and they are consistent with the
8 provision of least cost electrical service.

9

10 *7.1.2 Newfoundland Power's Capital Management Practices*

11 To provide a broad context for the Board's consideration of the Application, Newfoundland
12 Power's *2013 Capital Plan* provides overviews of (i) the Company's capital management practice
13 and how it is reflected in its annual capital budgets, (ii) the 2013 capital budget and (iii) the 5-year
14 capital outlook through 2017.

15

16 The *2013 Capital Plan* contains an overview of the Company's capital management practices.
17 Planned expenditures through 2017 will be consistent on an inflation-adjusted basis with annual
18 capital expenditures during the period 2008 through 2012.

19 Reference: *2013 Capital Plan.*

20

21 Compliance with federal regulation governing a number of aspects of Newfoundland Power's
22 operations has influence on the 2013 Capital Plan. This includes regulation of PCBs, fisheries
23 and electricity metering.

24 Reference: *2013 Capital Plan.*

1 7.1.3 Sound Engineering Judgment

2 The provision of service and facilities which are “reasonably safe and adequate and just and
3 reasonable” as required by Section 37(1) of the *Public Utilities Act* requires the exercise of
4 judgment. In particular, the timing, necessity and appropriateness of the investment to meet the
5 obligation to serve on a least cost basis involve sound engineering judgment.

6

7 To assist the Board in determining whether the engineering judgments reflected in the 2013
8 Capital Budget are sound, it is submitted that there was no evidence before the Board in this
9 proceeding that:

16

17 7.1.4 Submission

18 Newfoundland Power submits that the 2013 Capital Budget contained in the Application
19 represents the capital expenditures required to meet its statutory obligations, including the
20 delivery of electrical power at the lowest possible cost consistent with reliable service. Pursuant
21 to Section 41 of the *Public Utilities Act*, the 2013 Capital Budget should be approved in its
22 entirety by the Board.

1 **7.2 Rate Base**

2 **7.2.1 General**

3 Newfoundland Power has requested that the Board fix and determine the 2011 average rate base
4 for the purpose of regulatory continuity and certainty, in the same manner as the Board has
5 exercised this regulatory supervisory power since 1999.²

6

7 Newfoundland Power's actual average rate base for 2011 is shown in Schedule D to the
8 Application.

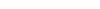
9

10 **7.2.2 Submission**

11 Based upon the evidence before the Board and pursuant to section 78 of the *Public Utilities Act*,
12 the Board should fix and determine Newfoundland Power's average rate base for 2011 at
13 \$876,356,000.

² See Order No. P.U. 24 (2000-2001).

1 **RESPECTFULLY SUBMITTED** at St. John's, Newfoundland and Labrador, this 31st day of
2 August, 2012.



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