

Office of the Consumer Advocate

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September 4, 2019

Board of Commissions of Public Utilities
120 Torbay Road, P.O. Box 2140
St. John's, NL A1A 5B2

Attention: **G. Cheryl Blundon, Director of
Corporate Services / Board Secretary**

Dear Ms. Blundon:

RE: Newfoundland and Labrador Hydro's 2020 Capital Budget Application

Further to the above-captioned, enclosed please find enclosed the original and twelve (12) copies of the Consumer Advocate's Notice of Intervention/Submission.

A copy of this letter, together with enclosure, has been forwarded directly to the parties listed below.

Yours truly,


Dennis Browne, Q.C.

/jl
Enclosure

cc **Newfoundland Power Inc.**
NP Regulatory (regulatory@newfoundlandpower.com)
Gerard Hayes (ghayes@newfoundlandpower.com)

Newfoundland & Labrador Hydro
NLH Regulatory (NLHRegulatory@nlh.nl.ca)
Shirley Walsh (ShirleyWalsh@nlh.nl.ca)

Board of Commissioners of Public Utilities
Jacqui Glynn (jblynn@pub.nl.ca)
Maureen Greene (mgreene@pub.nl.ca)
PUB Official Email (ito@pub.nl.ca)

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

IN THE MATTER OF capital expenditures and rate base of Newfoundland and Labrador Hydro (“NLH”); and

IN THE MATTER OF an application by Newfoundland and Labrador Hydro for an order:

- (i) approving its 2020 Capital Budget in the amount of \$108,487,300;
- (ii) approving its capital purchases and construction projects in excess \$50,000 beginning in 2020;
- (iii) fixing and determining its average rate base for 2015 in the amount of \$1,747,308,000 and for 2016 in the amount of \$1,885,849,000

CONSUMER ADVOCATE NOTICE OF INTERVENTION/SUBMISSION

Re: NLH 2020 Capital Budget Application

Overview

1. Newfoundland and Labrador Hydro (“NLH”) filed the above-referenced application with the Public Utilities Board on August 1, 2019.
2. The Consumer Advocate (the “Consumer Advocate”) appointed as set out in Section 117 of the *Public Utilities Act* will intervene in the above referenced Application to represent these purposes:
 - a. To represent consumers in all matters pertaining to the Application;
 - b. To advocate that the Board apply the policy established under the *Electrical Power Control Act* 1994 (the “Act”) and in particular to ensure that the Application will

result in power being delivered to consumers at the lowest possible cost consistent with reliable service;

- c. To attend conferences and hearings, as the case may be, and to file Requests for Information and written submission;
- d. And to all matters relating to the foregoing.

3. The NLH 2020 Capital Budget Application includes projects and capital expenditures totaling \$108,487,300. Each of these proposed expenditures require particular scrutiny and should not be approved until the Applicant NLH has demonstrated to the satisfaction of the parties through a technical conference or a hearing that all reasonable studies have been undertaken and that each expenditure is the least cost reasonable alternative and to state the reasons why that particular expenditure was chosen. This information should be brought to the attention of the Board, the intervenor and the parties.
4. Each and every proposed expenditure requires the scrutiny referenced above but some expenditures proposed in reference to the Thermal Plant at Holyrood are inconsistent with Nalcor's position that Holyrood will not be required after the Muskrat Falls Project has been commissioned. This issue of Holyrood expenditures and the purpose of Holyrood pre and post Muskrat requires further evidence from the Applicant before there are any further Holyrood expenditures.
5. It is noteworthy that the 2020 Capital Budget Applications of Newfoundland Power and NLH combined exceed \$200,000,000. In the past these expenditures have been approved through so called paper filings and requests for information but without a technical conference or a hearing. This process and procedure is unacceptable. The Board has a responsibility to the ratepayers of the Province given the magnitude of these expenditures. In short, the ratepayers request a standard commensurate with the expenditure of \$200,000,000 and that there be either a technical conference or a hearing.

6. Furthermore, the Capital Budget Guidelines issued by the Board on June 2, 2005 (provisional) and revised in October 2007 allow for a technical conference on capital budget applications although there is scant evidence wherein PUB has ordered a technical conference in reference to any capital budget application.
7. The Government of the Province issued a Reference on September 5, 2018 directing the Board of Commissioners of Public Utilities of Newfoundland and Labrador to review and report on a number of matters including options to reduce the impact of the Muskrat Fall Project (MFP) on electricity rates through to the year 2030. The Liberty Consulting Group's final report on Phase 2 of the Muskrat Fall Project potential rate mitigation options dated September 3, 2019 states in part (at page 7 thereof):

In addition, we found striking the nearly \$0.5 billion dollars in five-year capital spending Hydro and Newfoundland Power combined have identified. Reductions in the amount of capital spending will reduce revenue requirements as much or greater than those attainable through reorienting the long-standing division of responsibility that exists in the Province for providing electricity service.

8. At the very least, the utilities proposing capital expenditures should be required to convene a technical conference to justify each and every expenditure and to ensure ratepayers are not paying for a duplication of services. For instance, both utilities require separate information, customer service facilities. The current upgrades Newfoundland Power is providing to Information Services requires an expenditure in excess of \$25,000,000 over a four-year period. NLH has its own systems paid for by ratepayers. If cost efficiencies between the utilities are to be recognized in the Muskrat Fall era the procedures to review capital budget applications must change.
9. For these reasons and as an initial step in providing the required scrutiny the Board has within its jurisdiction under its guidelines to order a technical conference.

c. Technical Conference

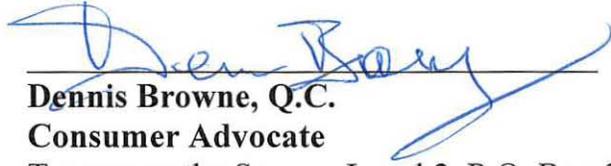
Where appropriate, a utility may conduct a technical conference.

A technical conference will be used in concert with the RFI process to gain a full understanding of the scope and nature of the proposed projects and will most often involve the participation of Board staff. To the extent that relevant information is brought forward at the technical conference, it will not be available for the consideration of the panel unless it is entered on the record through the RFI process or in the evidence of a witness. The technical conference will generally not be recorded and the information provided will not be part of the record.

Where the parties agree and the Board determines that it would be of assistance, the Commissioners of the Board hearing the application may participate in the presentation portion of the technical conference. Where the Commissioners participate the technical conference shall be transcribed or, in the alternative with the agreement of the parties, the utility shall file as part of the record a written copy of the substance of the presentation which shall be reflective of the presentation and may be referred to in the decision making of the Board. After the presentation the Commissioners may ask questions but generally will not be present during the discussion/questions of the other participants.

10. For all these reasons ratepayers of the Province are requesting technical conferences be held commencing now prior to any further annual capital budget approvals.
11. For all these reasons and pursuant to the requirements set out in Section 9 of the Board of Commissioners of Public Utilities Regulations 1996 and based on the foregoing the Consumer Advocate's participation in the hearing will including any and all of the following:
 - a. Participating in technical conferences and/or hearings as the case may be;
 - b. Directing Requests for Information to NLH and other parties;
 - c. Cross-examining witnesses who testify in this matter;
 - d. Submitting submissions and other representations to the PUB; and
 - e. In other ways in which the PUB reasonably see fit given the circumstances.

DATED at St. John's, Newfoundland and Labrador, this 4th day of September, 2019.



A handwritten signature in blue ink, appearing to read "Dennis Browne", is written over a horizontal line.

Dennis Browne, Q.C.

Consumer Advocate

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