

**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

**ORDER NUMBER: P.U. 7 (2002-2003)**

**APPENDIX B**



NEWFOUNDLAND AND LABRADOR

AN ORDER OF THE BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

NO. .... **P.U. 7 (2001-2002)**

## **PROCEDURAL ORDER**

**IN THE MATTER OF** the Electrical Power Control Act, 1994 (“EPCA”) and the Public Utilities Act (“the Act”) and their subordinate regulations

**AND IN THE MATTER OF** an Application by Newfoundland and Labrador Hydro (“Hydro”) for approvals of: (1) Under Section 70 of the Act, changes in the rates to be charged for the supply of power and energy to its Retail Customer, Newfoundland Power, its Rural Customers and its Industrial Customers; (2) Under Section 71 of the Act, its Rules and Regulations applicable to the supply of electricity to its Rural Customers; (3) Under Section 71 of the Act, the contracts setting out the terms and conditions applicable to the supply of electricity to its Industrial Customers; and (4) Under Section 41 of the Act, its 2002 Capital Budget

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

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

**Don Powell, C.A.**  
**Commissioner**

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

Newfoundland and Labrador Hydro (“Hydro”) filed an application with the Public Utilities Board (“the Board”) dated May 31, 2001 for an order or orders of the Board approving among other things, the proposed rates for the various customers of Hydro, commencing January 1, 2002 as set out in the application.

Beginning on June 18, 2001, a Notice of pre-hearing conference was published in newspapers throughout Newfoundland and Labrador.

In advance of the pre-hearing conference, Board Counsel provided the parties with a Proposal for the setting of a schedule and procedures for the conduct of the hearing.

On July 5, 2001, 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, Newfoundland.

The primary objectives of the pre-hearing conference, as set out in the Notice and addressed in the Proposal were as follows:

1. Identify Intervenors and other interested parties.
2. Set specific dates and locations for public hearings, which may include setting of dates in Labrador and other areas serviced by Hydro whose customers may be affected by the application.
3. Establish an order of witnesses.
4. Establish an order of cross-examination of witnesses.
5. Establish a protocol and procedure for filing evidence, information requests, and other submissions to the Board.
6. Identify distribution lists for the service of documents.
7. Provide focus to the issues.
8. Determine other such matters relevant to the hearing.

Having heard the submissions of counsel for the parties on the proposal and giving regard to the importance of having the matter heard at the earliest opportunity, the Board now considers it expedient to set out the schedule and procedures for the hearing of the application.

**Pursuant to the Act and the Board of Commissioners of Public Utilities Regulations, 1996 (the “Regulations”), and in particular section 3(2) of the Regulations,**

**THE BOARD ORDERS THAT:**

1. The parties identified as registered Intervenors and the Schedule and Procedures for the Hearing are as set out in Appendix “A” to this Order.
2. The service of documents shall be made to the parties identified in the Distribution Lists as set out in Appendix “B” to this Order.
3. Subject to that otherwise provided for in this Order, all other provisions of the Regulations shall apply.
4. On or before July 17, 2001, each party to the proceeding shall file with the Board a list of the witnesses that the party intends to call at the hearing, together with a copy of the professional resume of each witness where applicable.
5. The Motion filed by the Industrial Customers seeking an order of the Board in relation to its costs of intervening in this matter is deferred for hearing until the first Motions day of July 18, 2001.

**DATED** at St. John's, Newfoundland, this 11<sup>th</sup> day of July, 2001.

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Robert Noseworthy,  
Chair & Chief Executive Officer.

---

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

---

G. Fred Saunders,  
Commissioner.

---

Don R. Powell, C.A.,  
Commissioner.

---

G. Cheryl Blundon,  
Director of Corporate Services and  
Board Secretary.

## **Appendix “A”**

### **REGISTERED INTERVENORS, SCHEDULE AND PROCEDURES FOR THE CONDUCT OF THE HYDRO GENERAL RATE HEARING**

#### **Items**

- 1. Registered Intervenor**
- 2. Schedule of Dates**
- 3. Order of Witnesses**
- 4. Procedures for Presentation of Evidence and Cross-examination of Witnesses**
- 5. Protocol and Procedure for Filing**
- 6. Motions**

## Appendix A-Item 1.

### 1. Registered Intervenor

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

1. Newfoundland Power Inc., *represented by*  
Gillian Butler, Q.C. and Peter Alteen  
Counsel to Newfoundland Power Inc.  
55 Kenmount Road  
P.O. Box 8910  
St. John's, NF  
A1B 3P6  
Telephone: 737-5859  
Fax: 737-2974
2. Abitibi Consolidated Inc., Stephenville and Grand Falls Divisions  
Corner Brook Pulp and Paper Company Limited  
North Atlantic Refining Limited  
Industrial Customers, *represented by*  
Janet M. Henley Andrews and Joseph S. Hutchings  
Stewart McKelvey Stirling Scales Poole, Althouse, Thompson & Thomas  
Cabot Place, 100 New Gower Street P. O. Box 812,  
P.O. Box 5038 49-51 Park Street  
St. John's, NF, A1C 5V3 Corner Brook, NF, A2H 6H7  
Telephone: 722-4270 Telephone: (709) 634-7241  
Fax: 722-4565 Fax: (709) 634-8247
4. Consumer Advocate, *represented by*  
Dennis Browne, Q.C. and Stephen Fitzgerald  
Browne Fitzgerald Morgan & Avis Counsel for Consumer Advocate  
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Terrace on the Square, Level II Phone - Same as Mr. Browne)  
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Telephone: 724-3800  
Fax: 754-3800
5. Town of Labrador City, *represented by* Telephone: (709) 944-3666  
Edward M. Hearn, Q.C. Fax: (709) 944-5494  
Miller & Hearn  
450 Avalon Drive, P.O. Box 129,  
Labrador City, NF  
A2V 2K3
6. Town of Happy Valley-Goose Bay, *represented by* Telephone: (709) 896-3321  
Dennis Peck Fax No. (709) 896-9454  
Director of Economic Development  
P. O. Box 40, Station B  
Happy Valley-Goose Bay  
Labrador, NF, A0P 1E0

## **Appendix A-Item 2.**

### **2. Schedule of Dates**

**The following dates are set:**

#### **July 2001**

July 13	Filing date for Motions to be heard on July 18
July 16	Filing date for reply briefs to any Motion filed to be heard on July 18
July 17	First round of questions submitted to Hydro and Intervenor by all parties other than Consumer Advocate
July 18	Motions day
July 25	First round of questions submitted to Hydro by Consumer Advocate

#### **August 2001**

August 3	Responses due by Hydro to questions submitted by relevant parties on or before July 17
August 8	Responses due by Hydro to questions submitted by Consumer Advocate on or before July 25
August 15	Response expert reports and pre-filed testimony by Intervenor
August 24	Filing date for Motions to be heard on August 29
August 27	Filing date for reply briefs to any Motion filed to be heard on August 29
August 27	Questions due on Response expert reports and pre-filed statements of Intervenor lay witnesses
August 29	Motions day

#### **September 2001**

September 7	Responses due to questions submitted to response experts and lay witnesses
September 12	Filing of any supplementary evidence arising from questions and answers
September 14	Questions due on supplementary evidence filed by September 12
September 18	Last filing date before hearing commencement, to include all answers to outstanding questions
September 24	Commencement of Hearing

#### **October 2001**

October 14	Travel to Labrador (specific locations and dates to be determined)
October 22	Re-commencement of hearing in St. John's
October 26	Non-hearing day (Board matters)

#### **November 2001**

November 30	Non-hearing day (Board matters)
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### **Appendix A-Item 3.**

#### **3. Order of Witnesses**

**Hydro** Presentation of Application

William Wells,	President & Chief Executive Officer
David Reeves,	Vice-President Transmission & Rural Operations
Robert Henderson,	Manager of Systems Operations
Hubert Budgell,	Director of Systems Planning
Kathleen McShane,	Cost of Capital Expert Witness
Douglas Hall,	Cost of Capital Expert Witness

#### **Intervenors**

NP	Cost of Capital Expert Witness
IC	Cost of Capital Expert Witness
CA	Cost of Capital Expert Witness
Others	

#### **Board**

Cost of Capital Expert Witness

#### **Hydro**

John Roberts,	Corporate Controller
Derek Osmond,	Vice-President of Finance & Chief Financial Officer
John Brickhill,	Cost of Service Expert Witness
Paul Hamilton,	Regulatory Specialist, Customer Services Department

#### **Intervenors**

NP	Cost of Service Expert Witness
IC	Cost of Service Expert Witness
CA	Cost of Service Expert Witness
Others	

#### **Board**

Cost of Service Expert Witness

#### **Newfoundland Power**

Presentation of Case Other witnesses

#### **Industrial Customers**

Presentation of case Other witnesses

**Consumer Advocate**

Presentation of Case   Other witnesses

**Other Intervenors**

Presentation of Case   Other witnesses

**Board**

William Brushett, C.A., Board's Financial Consultant

**Other witnesses****Conclusion of Hearing**

#### **Appendix A-Item 4.**

#### **4. Procedures for Presentation of Evidence and Cross-examination of Witnesses**

Pre-filed testimony of all non-expert witnesses should be adopted upon their taking the stand, and, unless otherwise objected to, will be accepted as evidence.

Reports of expert witnesses should be adopted upon their taking the stand, and, unless otherwise objected to, will be accepted as evidence.

The order of presentation and cross-examination of witnesses is as follows:

Direct evidence	Hydro
First Cross	Newfoundland Power
Second Cross	Industrial customers
Third Cross	Consumer Advocate
Fourth Cross	Others
Last Cross	Counsel to the Board

Board Questions

Questions on Matters Arising

Hydro
Newfoundland Power
Industrial Customers
Consumer Advocate
Others
Counsel to the Board

Direct Evidence	Intervenor Presenting Witness
First Cross	Hydro
Second Cross, and so on	Other Intervenors per above

Board	Questions
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Questions on Matters Arising

Intervenor Presenting Witness
Hydro
Other Intervenors
Counsel to the Board

## **Appendix A-Item 5.**

### **5. Protocol and Procedure for Filing**

#### **Rules of Procedure**

##### **A Public Record**

All documents filed with respect to this proceeding shall be placed on the public record.

##### **B Form of Documents**

- (1) Unless directed by the Board, the official record of this proceeding will be the original paper copy filed with the Board's Secretary and all copies.
- (2) Every written document filed by a party 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 reasonable, each line shall be numbered.

##### **C Filing of Documents**

This subsection shall govern filing of documents with the Board. Filing is accomplished when the Board receives the submission.

- (1) All documents shall be filed with the Board Secretary.
- (2) Documents may be filed by:
  - (a) Hand delivery;
  - (b) Courier service;
  - (c) Registered Mail;
  - (d) Facsimile; or
  - (e) Other means directed by the Board.
- (3) All documents shall be date and time stamped when received at the Board's Office. To ensure distribution on the same business day, all documents filed according to the scheduled dates shall be filed no later than 2:00 P.M. on the date stipulated. Documents filed after this time or on a Board holiday shall be considered as filed on the next Board business day and will be distributed on that date.

## **D Revisions to Documents**

- (1) A party may revise any document where new information or information to correct errors on submitted filings becomes available before the completion of a hearing. In which event:
  - (a) Any party may request a hearing on the new information.
  - (b) The Board will determine whether a hearing is required to consider the revised document.
- (2) Where all or any part of a document is revised, each revision shall indicate the page(s) revised, the line (s) revised as well as the number of the revision (i.e. 1<sup>st</sup> revision) and the date of the revision.

## **E Service of Documents**

This subsection shall govern service of all papers upon parties and proposed intervenors.

- (1) Service upon a party shall be complete when the party or the party's legal representative receives the document. Service may be made as follows:
  - (a) Hand delivery;
  - (b) Courier service;
  - (c) Registered Mail;
  - (d) Facsimile;
  - (e) Or other means directed by the Board.
- (2) Service will be effective:
  - (a) If the document is delivered by hand, courier or fax on the same day that delivery is made.
  - (b) If the document is delivered by registered mail on the date of receipt.
- (3) If service is made by any other means, within the timeframe directed by the Board.

## **F Number of Copies of Filings and other Documents**

Unless otherwise ordered by the Board, parties filing documents with the Board shall adhere to the following guidelines:

- (1) File with the Board Secretary one original signed copy of each document.
- (2) Provide 17 copies of the original documents with the Board.
- (3) Two copies of each of the documents, described in subsection (1), shall be served on the Applicant.

- (4) Each intervenor or where indicated, each legal representative of the Intervenor.
- (5) The distribution list for each Intervenor is attached to these guidelines.

## **G Charge for Copies**

- (1) The Board will provide a copy of any document authored by the Board, or its consultants, at no charge.
- (2) Copies of documents originating or authored by the parties should be requested directly from the parties.
- (3) The Board will charge for the cost associated with the reproduction of any other document requested of it by an individual or party.

Copy fees reflect the costs associated with reproducing the material. Copies made at the Board offices are 15 cents per page. Copying sent to outside vendors is recovered on an actual cost basis.

- (4) One copy of the transcript for each day of the hearing will be provided to each Intervenor or where indicated, each legal representatives of the Intervenor, at no cost.
- (5) Copies of the Legislation, Acts, and Regulations can be obtained from the Queen's Printer, viewed at the Board's Main Offices, or viewed on the Board's Website at [www.pub.nf.ca](http://www.pub.nf.ca).

## **H Public Viewing**

Interested persons may view any or all documents filed in this proceeding at the Board's Public Viewing Room at the Board's main offices by contacting the Board Secretary.

## **I Electronic Filing**

The Board recognizes the value inherent in this technology, and wishes to assess the use of electronic filing during this hearing. Accordingly, the Board, on an experimental basis, wishes to establish procedures and protocols for the filing of electronic copies of original hard-copy documentation.

The Board's intention is to implement a process whereby electronic versions of the documentation filed with the Board will be placed on the PUB server ([www.pub.nf.ca](http://www.pub.nf.ca)) where they would be available for download. The Board is investigating the technical requirements of establishing such a procedure and will provide an update on the status of this matter on Motions day, July 18, 2001.

In the interim, the Board requests that each party to the Hydro hearing, unless otherwise exempted, file with the Board an electronic version of all documentation filed with the Board since May 31, 2001 related to the Hydro Application, in the following manner:

- Each individual document shall be converted while in electronic form to "read only" \*.pdf format (Adobe Acrobat), still allowing for key word searches and cut and paste functionality

- On 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)

It is noted that certain parties to the Hydro Application have sought electronic copies of documents. Until such time as the Board has established a procedure for placing the electronic copy on its server, it is unable to fulfill individual requests. However, the Board would encourage the parties, as an interim measure, to co-operate with each other to facilitate this process.

Please note that the electronic file will not be an official document for the purposes of the hearing. The original paper documents will remain the official documents.

## **Appendix A-Item 6.**

### **6. Motions**

As noted in the Schedule of Dates, certain days have been set aside for the specific purpose of hearing any Motion that has been filed by a party. While any party is free to file a Motion at any time, it is proposed that these Motion days would be used by the Board wherever possible to conduct the actual hearing of the Motion should it be a contested matter.

Parties are to adhere to the same directions for the filing of documents as provided for in Item 4 of this Appendix A.

Motions must be filed at least 5 days before the scheduled Motion day. The 5 day period includes the first day, but not the last day. The 5 day period also includes weekend days where applicable.

Response briefs to a Motion must be filed by the responding party at least one clear day before the Motion day.

Where a party wishes to have a matter heard other than on a reserved Motion day, they may provide Notice to the Board of their request. Upon its receipt, the Board will consider the request and render a decision accordingly.



**Appendix “B”**  
**DISTRIBUTION LISTS**  
**SERVICE OF DOCUMENTS**  
**FOR THE HYDRO GENERIC RATE HEARING**

The service of documents shall be made to the parties identified in the following Distribution Lists:

1. Distribution Listing
2. Hydro Distribution Listing
3. NP’s Distribution Listing
4. Industrial Customers’ Distribution Listing
5. Consumer Advocate Distribution Listing
6. Town of Labrador City Distribution Listing
7. Town of Happy Valley – Goose Bay Distribution Listing

## **Appendix B-Item 1.**

### **1. DISTRIBUTION LISTING**

1. G. Cheryl Blundon  
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7. Mr. Dennis Peck  
Director of Economic Development  
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## **Appendix B-Item 2.**

### **2. HYDRO DISTRIBUTION LISTING**

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General Counsel & Corporate Secretary  
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and Geoffrey Young  
Counsel

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### **Appendix B-Item 3.**

#### **3. NP'S DISTRIBUTION LISTING**

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2. Maureen P. Greene, Q.C. and Geoffrey Young  
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4. Dennis Browne, Q.C.  
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## **Appendix B-Item 4.**

### **4. INDUSTRIAL CUSTOMERS' DISTRIBUTION LISTING**

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## **Appendix B-Item 5.**

### **5. CONSUMER ADVOCATE DISTRIBUTION LISTING**

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## **Appendix B-Item 6.**

### **6. TOWN OF LABRADOR CITY DISTRIBUTION LISTING**

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## **Appendix B-Item 7.**

### **7. TOWN OF HAPPY VALLEY – GOOSE BAY DISTRIBUTION LISTING**

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**UPDATED: JULY 10, 2001**