

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

**IN THE MATTER OF** an application by  
Newfoundland Power Inc., ("Newfoundland  
Power") for an Order pursuant to Sections 41 and  
53 of the Act, and all other enabling powers:

- (a) for approval of the purchase by  
Newfoundland Power of certain additions to  
its property and assets; and
- (b) for approval of an agreement concerning the  
terms and conditions upon which Aliant  
Telecom Inc. ("Aliant") shall jointly use  
certain facilities of Newfoundland Power;

**IN THE MATTER OF** Order P.U.6 (2001-2002)  
and an application by Newfoundland Power to re-  
open the application to receive further evidence.

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

**THE APPLICATION OF** Newfoundland Power **SAYS THAT:**

1. Newfoundland Power is a corporation duly organized and existing under the laws of the Province of Newfoundland, is a public utility within the meaning of the Act, and is subject to the provisions of the *Electrical Power Control Act, 1994*.
2. Newfoundland Power engages in the generation, transmission and distribution of electricity on the island portion of Newfoundland. Newfoundland Power owns various Support Structures, including poles, anchors and related equipment, and rights of way, easements and other interests in real property for such Support Structures, in connection with the provision of such services.
3. Aliant engages in the provision of telecommunication services in, amongst other places, the island portion of Newfoundland. Aliant owns various Support Structures, including poles, anchors and related equipment, and rights of way, easements and other interests related to such Support Structures, in connection with the provision of such services.
4. Newfoundland Power and Aliant entered into a Support Structures Purchase Agreement made as of January 1, 2001, pursuant to which Newfoundland Power agreed to purchase, from Aliant, Support Structures owned by Aliant and located on the island portion of Newfoundland (the "Support Structures"). A copy of the Support Structures Purchase Agreement has already been filed with the Board.

5. Newfoundland Power has assigned to 11003 Newfoundland Inc. its rights pursuant to the Support Structures Purchase Agreement to purchase those Support Structures which are outside of Newfoundland Power's service territory. A copy of the Assignment has already been filed with the Board.
6. Newfoundland Power and Aliant had proposed to enter into a Facilities Partnership Agreement as of January 1, 2001, governing Aliant's use of all Support Structures in Newfoundland Power's service territory and related matters, including the payment of remuneration by Aliant to Newfoundland Power in connection with Aliant's use of Support Structures and payment of contributions with respect to the construction of certain Support Structures. A copy of the Facilities Partnership Agreement substantially in the form that had been intended to be executed by Newfoundland Power and Aliant has already been filed with the Board.
7. Newfoundland Power applied to the Board by Application dated May 8, 2001 for approval of the purchase by Newfoundland Power of Aliant's Support Structures in Newfoundland Power's service territory and other related matters. Following a public hearing, by Order P.U.6 (2001-2002), the Board declined to permit the inclusion of the Aliant non-joint use poles in Newfoundland Power's rate base and denied Newfoundland Power's request for approval of the capital expenditures to purchase Aliant's non-joint use poles. The Board indicated that it would require additional evidence from Newfoundland Power prior to determining whether to approve the capital expenditures for the 69,848 joint use poles in light of its decision with respect to the non-joint use poles.
8. Subsequent to Order P.U.6(2001-2002), Newfoundland Power and Aliant re-opened negotiations with respect to the Support Structures Purchase Agreement and the Facilities Partnership Agreement. Newfoundland Power and Aliant have agreed that:
  - (a) The closing date for the purchase will be extended to August 30, 2001;
  - (b) Newfoundland Power will assign to 11003 Newfoundland Inc. its rights pursuant to the Support Structures Purchase Agreement to purchase Aliant's non-joint use Support Structures in Newfoundland Power's service territory;
  - (c) For the years 2001 to 2005 inclusive, Aliant will pay a transitional rate adjustment of \$0.50 per pole, in addition to the annual rental rate of \$32.00 provided for in the original Facilities Partnership Agreement;
  - (d) Newfoundland Power and Aliant have modified the Facilities Partnership Agreement to include only the joint use Support Structures in Newfoundland Power's service territory.
  - (e) 11003 Newfoundland Inc. and Aliant have established a separate Facilities Partnership Agreement with respect to non-joint use support structures.

9. Newfoundland Power has assigned to 11003 Newfoundland Inc. its rights pursuant to the Support Structures Purchase Agreement to purchase Aliant's non-joint use telecommunications support structures within Newfoundland Power's service territory. Those non joint use support structures are not now a part of this Application. A copy of the Assignment is filed with this Application.
10. Newfoundland Power and Aliant propose to enter into a Facilities Partnership Agreement that has been modified to govern only the joint use Support Structures in Newfoundland Power's service territory. A copy of the modified Facilities Partnership Agreement substantially in the form to be executed by Newfoundland Power and Aliant is filed with this Application.
11. Newfoundland Power currently performs pole line design, installation and maintenance services for Aliant. Newfoundland Power will continue to provide those services in relation to the non-joint use telecommunications support structures following their purchase by 11003 Newfoundland Inc. Fees for those services will be charged to 11003 Newfoundland Inc. based on the market rates Newfoundland Power charges to unrelated parties, as was previously the case with Aliant. Such fees will be billed on the basis of detailed timesheet tracking of engineering and clerical time. Because 11003 Newfoundland Inc. is a related company, inter-company transactions will be recorded and reported in accordance with Board Orders.
12. The Support Structures Purchase Agreement provides that undivided interests in and to the Support Structures shall be purchased by Newfoundland Power in accordance with the following schedule:

| <i>Date of Payment of<br/>Purchase Price Installment</i> | <i>Undivided Interest In<br/>Support Structures Transferred</i> |
|----------------------------------------------------------|-----------------------------------------------------------------|
| Closing Date                                             | 50%                                                             |
| January 1, 2002                                          | 20%                                                             |
| January 1, 2003                                          | 10%                                                             |
| January 1, 2004                                          | 10%                                                             |
| January 1, 2005                                          | 10%                                                             |

13. The Support Structures Purchase Agreement, as amended by the Assignments described in paragraphs 5 and 9 of this Application, provides, in effect, that the aggregate purchase price (the "Purchase Price") payable by Newfoundland Power to Aliant for the joint use Support Structures in Newfoundland Power's service territory shall be \$40,439,669. The Purchase Price shall be paid by Newfoundland Power to Aliant in accordance with the following schedule:

| <i>Payment Date</i> | <i>Amount</i>             |
|---------------------|---------------------------|
| Closing Date        | 50% of the Purchase Price |
| January 1, 2002     | 20% of the Purchase Price |
| January 1, 2003     | 10% of the Purchase Price |

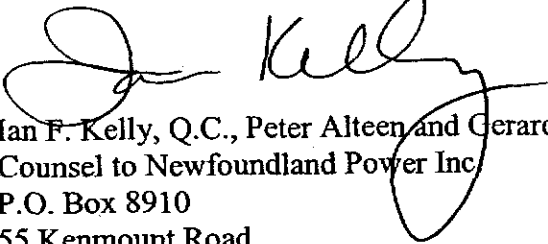
January 1, 2004  
January 1, 2005

10% of the Purchase Price  
10% of the Purchase Price

14. These transactions will result in Newfoundland Power becoming the owner of all joint use Support Structures used by Newfoundland Power and Aliant within Newfoundland Power's service territory. This will ensure that Support Structures are available to Newfoundland Power and Aliant at reasonable cost.
15. The amount proposed to be paid to Aliant by Newfoundland Power in 2001 for the 50% interest in the Support Structures is \$20,219,834 as set out in Schedule A to this Application.
16. The Facilities Partnership Agreement between Newfoundland Power and Aliant with respect to joint use Support Structures will also require supplementary capital expenditures by Newfoundland Power of \$1,881,750 for distribution plant additions in 2001 as set out in Schedule A to this Application.
17. The proposed supplementary capital expenditures by Newfoundland Power will enable Newfoundland Power to continue to provide service and facilities which are reasonably safe and adequate and just and reasonable as required pursuant to Section 37 of the Act.
18. Communication with respect to this Application shall be forwarded to the attention of Ian F. Kelly, Q.C., Peter Alteen and Gerard Hayes, Counsel to Newfoundland Power.
19. Newfoundland Power requests that the Board re-open the Application to receive further evidence with respect to Newfoundland Power's purchase of Aliant's joint use Support Structures in Newfoundland Power's service territory pursuant to Regulation 28 of the Board of Commissioners of Public Utilities Regulations, 1996. The additional evidence is contained in this Application and in Exhibit 10 (1<sup>st</sup> Revision) filed with this Application.
20. Newfoundland Power further requests that the Board make an Order pursuant to Sections 41 and 53 of the Act, and all other enabling powers, as follows:
  - (a) approving the purchase by Newfoundland Power of Aliant's joint use Support Structures in Newfoundland Power's service territory;
  - (b) approving the modified Facilities Partnership Agreement;
  - (b) approving supplementary capital expenditures for 2001 in the amount of \$22,101,584 as set out in Schedule A to this Application; and
  - (c) such other matters as may appear just and reasonable upon the hearing of this Application.

**DATED** at St. John's, Newfoundland this 26<sup>th</sup> day of July, 2001.

**NEWFOUNDLAND POWER INC.**



Ian F. Kelly, Q.C., Peter Alteen and Gerard Hayes  
Counsel to Newfoundland Power Inc.  
P.O. Box 8910  
55 Kenmount Road  
St. John's, Newfoundland  
A1B 3P6

Telephone: 737-5859  
Telecopier: 737-2974

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#### **AFFIDAVIT**

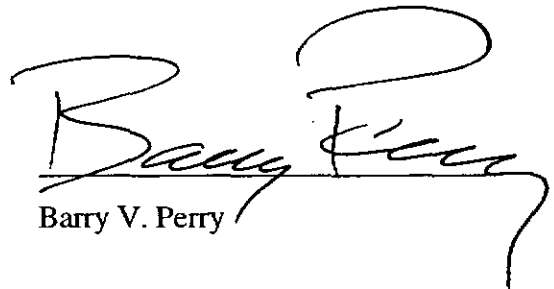
I, Barry V. Perry, of St. John's in the Province of Newfoundland, Chartered Accountant, make  
oath to say as follows:

1. That I am the Vice-President, Finance and Chief Financial Officer of Newfoundland  
Power Inc.
2. To the best of my knowledge, information and belief, all matters, facts and things set out  
in this Application are true.

Sworn to before me at St. John's  
in the Province of Newfoundland  
this 26<sup>th</sup> day of July, 2001, before me:



Barrister

  
Barry V. Perry

**Newfoundland Power Inc.**  
**2001 Capital Additions \***  
**(\$000s)**

|                                               |                 |            |               |
|-----------------------------------------------|-----------------|------------|---------------|
| <b>50% interest in the Support Structures</b> |                 |            | <b>20,220</b> |
| <b>Distribution Additions:</b>                | Line Extensions | 700        |               |
|                                               | Reconstruction  | 547        |               |
|                                               | Rebuilds        | <u>635</u> | <b>1,882</b>  |
| <b>Total</b>                                  |                 |            | <b>22,102</b> |