

Appendix “C”

NEWFOUNDLAND POWER INC. 2004 CAPITAL BUDGET APPLICATION

Rules of Procedure

Unless otherwise ordered by the Board, these Rules of Procedure shall govern the conduct of the proceeding. The rules of procedure set out in *Regulation 39/96* apply in this proceeding to the extent that they are consistent with these Rules.

1. Record

- (1) All documents filed with respect to this proceeding shall be placed on the public record.
- (2) The official record of this proceeding will be the original paper copy filed with the Board’s Secretary

2. Form of Documents

- (1) Every written document filed 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 practicable each line shall be numbered.

3. Filing of Documents

- (1) One original signed copy of each document to be entered in the proceeding shall be filed with the Board.
- (2) In addition to the original document each party shall submit to the Board eight (8) copies.
- (3) Documents may be filed by:
 - (a) hand delivery;
 - (b) courier service;
 - (c) facsimile;
 - (d) registered mail; or
 - (e) other means directed by the Board
- (4) Filing is accomplished when the Board receives the document.
- (5) All documents filed according to the scheduled dates shall be filed no later than 3:00 P.M. on the date stipulated. Documents filed after 3:00 P.M. or those which are filed on a Board holiday shall be considered to have been filed on the next Board business day.

4. Electronic Filing

- (1) Each party shall file with the Board an electronic version of all documents filed in this proceeding in the following manner:
 - (a) Each individual document, while in electronic form, shall be converted in to *.pdf format, still allowing for key word searches and cut and paste functionality.
 - (b) Within two days after the day of filing of the hard copy, one copy of the electronic *.pdf file will be emailed to ito@pub.nf.ca.
 - (c) All documents filed in hard copy with the Board shall be filed electronically with the exception of:
 - i. covering letters or correspondence;
 - ii. background reports, Board Orders or historical documentation that are unavailable electronically or impractical to provide electronically; and
 - iii. case law filed in support of Motions.

5. Service of Documents

- (1) A copy of each document filed with the Board shall be served on the other parties in this proceeding.
- (2) Parties will appoint one person to receive documents for this proceeding, except where a group of individuals or companies has retained common counsel to participate in the proceeding, a reasonable number of copies shall be provided to the group, not, in any event, to exceed the number of members in the group.
- (3) Service may be made as follows:
 - (a) Hand delivery;
 - (b) Courier service;
 - (c) Registered Mail;
 - (d) Facsimile; or
 - (e) Other means ordered by the Board.
- (4) Service will be effective:
 - (a) On the day of delivery, where the document is sent by hand, courier or facsimile;
 - (b) On the date of receipt, where the document is delivered by registered mail; or
 - (c) On a date determined by the Board, where service is made by any other means.

6. Revisions to Documents

- (1) Any document may be revised where new information, or information to correct errors in documents becomes available before the completion of the hearing.
- (2) Where all or any part of a document is revised, each revision shall indicate the page(s) revised, the line(s) revised, the number of the revision (i.e. 1st revision. 2nd revision etc.), and the date of the revision.

7. Charges for Copies

- (1) The Board will provide a copy of any public document authored by the Board or its consultants at no charge.
- (2) Copies of documents originating from, or authored by, a party should be requested directly from that party.
- (3) One copy of the transcript for each day of the hearing will be provided to the parties in accordance with the Distribution Listing.
- (4) Copies of the Legislation, Acts, and Regulations can be obtained from the Queen's Printer, viewed at the Board's main office, or viewed on the Board's website at www.pub.nf.ca.
- (5) The Board may charge copy fees for the cost associated with the reproduction of any other document requested by an individual or party in accordance with the applicable legislation.

8. Public Viewing

- (1) Interested persons may view any or all documents filed in this proceeding on the Board's website, (www.pub.nf.ca) or at the Board's main office by contacting the Board Secretary.

9. Information Requests

- (1) The Parties shall observe the dates set for the issuance and filing of requests for information ("RFIs") and dates for responses to RFIs.
- (2) RFIs and responses to RFIs shall be labelled with:
 - a. the initials of the party issuing the RFI;
 - b. consecutive whole numbers; and
 - c. the initials of the party to whom the RFI is directed.
- (3) RFIs, and responses to RFIs, shall constitute part of the record in the proceeding and will be considered to be evidence in the proceeding.
- (4) Where ordered by the Board, a party providing a response to a RFI shall make a witness or witnesses available for cross-examination to speak to the information provided in the response.

10. Motions

- (1) Motions on evidentiary issues or matters of law arising out of this proceeding must be filed in writing with the Board and served upon all parties two days before the hearing of the motion.
- (2) Responses to a motion must be filed in writing with the Board and served upon the parties one day before the hearing of the motion.
- (3) The Board may, at its discretion, where the parties were advised and provided with an opportunity to make written submissions, consider a motion on the basis of the written submissions filed.

- (4) The order of presentation of argument on a motion shall be as set out in the Order of Presentation described in these Rules of Procedure.

11. Witnesses

(1) Direct Testimony

- (a) Pre-filed testimony and any expert reports filed in the proceeding shall be adopted in direct examination, and, unless otherwise objected to, will be accepted as evidence.
- (b) Direct examination should be limited to matters set out in the pre-filed testimony except that the Board may allow a witness to provide supplementary or clarifying evidence, update previously filed evidence and respond to evidence given or events occurring since the date of filing of his or her pre-filed evidence, in which case, reasonable opportunity for review of the evidence will be provided prior to cross-examination.
- (c) The Board may restrict direct testimony where it is irrelevant or redundant and not helpful to the Board in making its decision.

(2) Examination of Witness

- (a) Each party shall have an opportunity to examine a witness.
- (b) The party calling the witness shall be afforded an opportunity for re-direct examination as set out in the Order of Presentation.

(3) Board Questions

- (a) The Board may pose questions to a witness.
- (b) Each party shall have an opportunity to question a witness on new matters arising from the questions of the Board after re-direct examination.

(4) Panels of Witnesses

- (a) A party may use a panel of witnesses where it will be of assistance to the Board.
- (b) A party wishing to call a panel of witnesses shall provide at least two days prior notice to the Board Secretary and the parties.
- (c) When examining a panel of witnesses a party shall put each question to a particular witness on the panel.
- (d) A co-witness on a panel may answer or supplement a question that was posed to, and answered by, another co-witness on the panel where the evidence is relevant and may be of assistance to the Board.

(5) Co-Counsel

- (a) Co-counsel may examine the same witness, or panel of witnesses, provided notice is given to the Board Secretary and the parties prior to the start of the cross-examination of the witness.

- (b) Co-counsel shall not examine the same witness on the same subject matter.

(6) **Documents not part of the record of the proceeding**

- (a) A party wishing to examine or cross-examine a witness on a document that is not:
- a. already part of the record of the proceeding;
 - b. a portion of a transcript of the witness' own testimony given within the preceding two (2) years or in the 2002 and 2003 Newfoundland Power Capital Budget proceedings; or
 - c. an Order of the Board,
- shall:
- a. file a copy of the document with the Board and all parties by 3 p.m. on the last business day before the examination or cross-examination is to take place;
 - b. provide eight (8) copies to the Board Secretary on the day of the examination or cross-examination; and
 - d. give the witness a reasonable time to review the document before the witness is asked to answer any question concerning the document.
- (b) Where the witness adopts the document it shall be marked as an exhibit to his testimony.
- (c) Where a document was not adopted as part of the witness' testimony the document may be:
- i) if the parties consent, entered as a consent exhibit; or
 - ii) entered as an information item.

12. Time

All references to time shall be clear days, that is the first and the last day shall be excluded.