

**NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

**AN ORDER OF THE BOARD
NO. P. U. 24(2009)**

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

AND IN THE MATTER OF a General Rate Application (the “*Application*”) by Newfoundland Power Inc. to establish customer electricity rates for 2010.

BEFORE:

Andy Wells
Chair and Chief Executive Officer

Darlene Whalen, P.Eng.
Vice-Chairperson

Dwanda Newman, LL.B.
Commissioner

PROCEDURAL ORDER

1 **WHEREAS** Newfoundland Power Inc. filed an application with the Board of Commissioners of
2 Public Utilities (“the Board”) on May 28, 2009 requesting approval of, among other things, the
3 proposed rates for the various customers of Newfoundland Power, to be effective January 1, 2010;
4 and

5
6 **WHEREAS** Notice of the Application and Pre-hearing Conference was published in newspapers
7 throughout Newfoundland and Labrador beginning on June 3, 2009; and

8
9 **WHEREAS** after publishing Notice the Board received Intervenor Submissions from the Consumer
10 Advocate and Newfoundland and Labrador Hydro; and

11
12 **WHEREAS** on June 17, 2009 a Pre-hearing Conference was held in the Board’s Hearing Room, 2nd
13 Floor, Prince Charles Building, 120 Torbay Road, St. John’s; and

14
15 **WHEREAS** the issues addressed at the Pre-hearing Conference included the identification of
16 Intervenors, the procedures to be followed in the matter and the Schedule of Dates; and

17
18 **WHEREAS** having heard from the parties and giving regard to their agreement in relation to the
19 proposed schedule and procedures for the hearing of the Application the Board makes the following
20 order pursuant to the provisions of the *Act* and regulations there under.

21
22
23 **THE BOARD ORDERS THAT:**

- 24
25 1. The registered Intervenors, the Schedule of Dates, and the Rules of Procedure for the hearing
26 of the Application are as set out in Appendix “A” to this Order.

DATED at St. John's, Newfoundland and Labrador this 17th day of June 2009.

Andrew Wells
Chair & Chief Executive Officer

Darlene Whalen, P.Eng.
Vice-Chairperson

Dwanda Newman, LL.B.
Commissioner

Cheryl Blundon
Board Secretary

Appendix "A"
Order No. P. U. 24(2009)

- | | | |
|---|----------------|-------------------------------|
| 1 | Item 1. | Registered Intervenors |
| 2 | | |
| 3 | Item 2. | Schedule of Dates |
| 4 | | |
| 5 | Item 3. | Rules of Procedure |

Registered Intervenors

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

1. **Consumer Advocate**

Thomas Johnson
O'Dea, Earle Law Offices
323 Duckworth Street
St. John's, NL
A1C 5X4
Telephone: 726-3524
Fax: 726-9600
E-mail: tjohnson@odeaearle.nf.ca

.2. **Newfoundland and Labrador Hydro**

Geoffrey P. Young
Senior Legal Counsel
Hydro Place, 500 Columbus Drive
P.O. Box 12400
St. John's, NL
A1B 4K7
Telephone: 737-1277
Fax: 737-1782
E-mail: gyoung@nlh.nl.ca

Schedule of Dates

The following dates are set:

June 2009

June 17 (Wednesday) Pre-Hearing Conference

July 2009

July 6 (Monday) Requests for Information filed (RFIs)

July 15 (Wednesday) Responses to RFIs are filed

July 24 (Friday) Motions Day (if required)

July 27 (Monday) 2nd Round of RFIs filed

July 31 (Friday) Grant Thornton Report filed

August 2009

Aug. 7 (Friday) Responses to 2nd round of RFIs filed

Aug. 17 (Monday) Experts' Reports and pre-filed evidence filed (except John Todd)

Aug. 17 (Monday) Witness Lists, Issues Lists filed

Aug. 20 (Thursday) John Todd's report will be filed

Aug. 21 (Friday) RFIs on Expert Reports filed (including Grant Thornton Report)

Aug. 24 (Monday) Negotiation period begins

Aug. 28 (Friday) Responses to RFIs on Experts' Reports filed

September 2009

Sept. 18 (Friday) Negotiations conclude

Sept 22 (Tuesday) Filing of settlement agreement, updated issues list and witness lists and proposed order of witnesses

Sept 29 (Tuesday) Final deadline for filing any outstanding information

October 2009

Oct. 14 (Wednesday) Public Hearing to begin

Newfoundland Power Inc.
2010 General Rate Application
Rules of Procedure

Public Record

1. Unless otherwise ordered by the Board, all documents filed with respect to this proceeding shall be placed on the public record.
2. A party may apply to the Board for an Order that a document or information filed in the proceeding is confidential and should not be released or released only on condition.
3. As a local public body, the Board is bound by the provisions of the provincial privacy legislation (*Access to Information and Protection of Privacy Act, RSNL 2002 Chapter A-1.1*). Private information which may be disclosed during the proceeding should be identified as private information and will be dealt with in accordance with the provisions of the provincial privacy legislation.

Form of Documents

3. (1) Unless otherwise ordered by the Board, the official record of this proceeding will be the original paper copy filed with the Board's Secretary
- (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) Single or double sided.
 - (c) Each page shall be numbered.
 - (d) Where reasonable, each line shall be numbered.

1 **Filing of Documents**
2

- 3 4. (1) All documents shall be filed with the Board Secretary.
4
5 (2) Documents may be filed by:
6
7 (a) Hand delivery;
8 (b) Courier service;
9 (c) Registered Mail;
10 (d) Facsimile; or
11 (e) Other means directed by the Board.
12
13 (3) Filing is accomplished when the Board receives the submission.
14
15 (4) All documents will be date and time stamped when received at the Board's Office.
16
17 (5) All documents filed according to the scheduled dates shall be filed no later than 3:00
18 p.m. on the date stipulated. Documents filed after this time or on a Board holiday
19 shall be considered as filed on the next Board business day.
20

21 **Revisions to Documents**
22

- 23 5. (1) A party may revise any document to correct errors or to provide new information
24 before the completion of the hearing.
25
26 (2) Where all or any part of a document is revised, each revision shall indicate the
27 page(s) revised, the line(s) revised, the number of the revision (i.e. 1st revision), and
28 the date of the revision.
29
30 (3) Where a revision is made to a document the Board may, upon its own motion or
31 upon the request of another party, after receiving submissions of the parties, make
32 any order in respect of the revisions.
33

34 **Service of Documents**
35

- 36 6. (1) All documents shall be served upon the other parties in this proceeding.
37
38 (2) Parties will appoint one (1) person to receive documents for this proceeding.
39
40 (3) Service may be made as follows:
41

- 1 (a) Hand delivery;
2 (b) Courier service;
3 (c) Registered Mail;
4 (d) Facsimile; or
5 (e) Other means ordered by the Board.
6

7 (4) Service will be effective:
8

- 9 (a) On the day of delivery, where the document is sent by hand, courier or
10 facsimile.
11 (b) On the date of receipt, where the document is delivered by registered mail.
12 (c) On a date determined by the Board, where service is made by any other
13 means.
14

15 **Number of Copies of Filings and other Documents**
16

- 17 7. (1) Unless otherwise ordered by the Board, parties filing documents with
18 the Board shall adhere to the following guidelines:
19
20 (a) File with the Board Secretary one (1) original signed copy of each document.
21 (b) Provide ten (10) copies of the original documents with the Board.
22 (c) Serve one (1) copy of each document to the parties.
23

24 **Charge for Copies**
25

- 26 8. (1) The Board will provide a copy of any document authored by the Board or
27 its consultants at no charge.
28
29 (2) Copies of documents originating or authored by a party should be requested directly
30 from the party.
31
32 (3) One (1) copy of the transcript for each day of the hearing will be provided to each
33 party at no cost.
34
35 (4) Copies of the Legislation, Acts, and Regulations can be obtained from the Queen’s
36 Printer, viewed at the Board’s Main Office, or viewed on the Board’s Website at
37 (www.pub.nl.ca).
38
39 (5) The Board may charge copy fees for the cost associated with the reproduction of any
40 other document requested by an individual or party in accordance with the applicable
41 legislation.

1 **Electronic Filing**
2

- 3 9. (1) To the extent practical every party shall file with the Board an electronic version of
4 all documentation filed with the Board in this proceeding in the following manner:
5
6 (a) Each individual document shall be converted while in electronic form to
7 “read only” *.pdf format (Adobe Acrobat), still allowing for key word
8 searches and cut and paste functionality.
9
10 (b) All Documents that are generated in-house by the parties are to be filed
11 electronically in the manner prescribed in this Order, with the exception of:
12
13 i. Covering letters or correspondence;
14 ii. Background reports, Board orders or historical documentation that are
15 unavailable or impractical to provide electronically, and
16 iii. Case law filed in support of Motions.
17
18 (2) Copies of all documentation, except confidential and private information, filed with
19 the Board in this proceeding will be placed on the Board’s website (www.pub.nl.ca),
20 or at the Board’s main office by contacting the Board Secretary.
21
22 (3) The electronic file is not an official record for the purposes of this proceeding.
23

24 **Public Viewing**
25

- 26 10. Interested persons may view any or all documents filed in this proceeding, except
27 confidential information, on the Board’s website (www.pub.nl.ca), or at the Board’s main
28 office by contacting the Board Secretary.
29

30 **Time**
31

- 32 11. The parties shall observe the schedule for the proceeding established by the Board as
33 amended from time to time.
34
35 12. All references to time shall be clear days, that is the first and the last day shall be excluded.

1 **Motions**

- 2
- 3 13. (1) Motions must be filed in writing with the Board and served upon the parties two
- 4 (2) days before the Motion Day.
- 5
- 6 (2) The responding parties must file with the Board and serve upon the parties response
- 7 briefs one day before the Motion Day.
- 8

9 **Information Requests**

- 10
- 11 14. (1) The Parties shall observe the dates set for the issuance and filing of requests for
- 12 information (“RFIs”) and dates for responses to RFIs.
- 13
- 14 (2) RFIs shall be:
- 15
- 16 (a) labelled with the initials of the party issuing the RFI;
- 17 (b) designated so as to provide notice of to whom the RFI is directed
- 18 (i.e. PUB-NP-1; PUB-CA-1); and
- 19 (c) numbered consecutively with whole numbers.
- 20
- 21 (3) RFIs, and responses to RFIs, shall constitute part of the record in the proceeding
- 22 and will be considered to be evidence in the proceeding.
- 23
- 24 (4) Where directed by the Board, a party providing a response to an RFI shall make a
- 25 witness or witnesses available for cross-examination to speak to the information
- 26 provided in the response.
- 27

28 **Procedures for Presentation of Evidence and Cross-examination of Witnesses**

- 29
- 30 15. (1) Pre-filed testimony of all non-expert witnesses and reports of expert witnesses should
- 31 be adopted as evidence by the witnesses in sworn testimony.
- 32
- 33 (2) Direct examination should be limited to matters set out in the witness pre-filed
- 34 testimony. The Board may allow a witness to provide supplementary evidence or
- 35 may restrict direct testimony where it is irrelevant, redundant or not helpful to the
- 36 Board in making its decision.

- 1 (3) Direct evidence may be presented by way of a panel of witnesses. Prior notice must
2 be given to the Board Secretary and the parties. When examining a panel of
3 witnesses Counsel shall put each question to a particular witness on the panel. Co-
4 counsel may examine the same witness, or panel of witnesses, provided notice is
5 given to the Board Secretary and the parties prior to the start of the cross-
6 examination of the witness.
7
- 8 (4) Where co-counsel intend to examine the same witness, prior notice must be given to
9 the Board Secretary and the parties. Co-counsel should not examine the same
10 witness on the same subject matter.
11
- 12 (5) The party calling the witness shall be afforded an opportunity for re-direct
13 examination and all parties shall have an opportunity to pose questions in relation to
14 new matters arising from questions of the Board.
15
- 16 (6) When presenting a document to a witness one (1) copy will be provided to the
17 witness, ten (10) copies to the Board Secretary and one (1) copy to each party.
18
- 19 (7) A party wishing to examine or cross-examine a witness on a document that is not:
20
21 (a) already part of the record of the proceeding;
22 (b) a portion of a transcript of the witness’ own prior testimony; or
23 (c) an Order of the Board;
24
25 shall:
26
27 i. file a copy of the document with the Board and all parties by 3:00 p.m. on the last
28 business day before the examination or cross-examination is to take place;
29 ii. provide ten (10) copies to the Board Secretary on the day of the examination or
30 cross-examination.
31
- 32 (8) Where the witness adopts the document it will be marked as an exhibit to his
33 testimony.
34
- 35 (9) Where a document was not adopted as part of the witness’ testimony the document
36 may be:
37
38 a. if the parties consent, entered as a consent exhibit; or
39 b. entered as an information item.
40

41 **Other**
42

- 43 16. Unless otherwise ordered by the Board, the rules of procedure set out in *Regulation 39/96*
44 apply in this proceeding to the extent that they are consistent with this Order.