

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

**AN ORDER OF THE BOARD
NO. P.U. 32(2015)**

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

AND IN THE MATTER OF a general rate application by Newfoundland Power Inc. to establish customer electricity rates effective July 1, 2016.

BEFORE:

Andy Wells
Chair and Chief Executive Officer

Darlene Whalen, P.Eng.
Vice-Chair

Dwanda Newman, LL.B.
Commissioner

James Oxford
Commissioner

PROCEDURAL ORDER

1 **WHEREAS** Newfoundland Power Inc. ("Newfoundland Power") filed a general rate application
2 (the "Application") with the Board of Commissioners of Public Utilities (the "Board") on
3 October 16, 2015 requesting approval of, among other things, the proposed rates for the various
4 customers of Newfoundland Power, to be effective July 1, 2016; and
5

6 **WHEREAS** Notice of the Application and Pre-hearing Conference was published in newspapers
7 throughout Newfoundland and Labrador beginning on October 31, 2015; and
8

9 **WHEREAS** after publishing notice the Board received Intervenor Submissions from the
10 Consumer Advocate and Newfoundland and Labrador Hydro; and
11

12 **WHEREAS** on November 19, 2015 a Pre-hearing Conference was held; and
13

14 **WHEREAS** the issues addressed at the Pre-hearing Conference include the registration of
15 Intervenor, the rules of procedure to be followed in the Application, and the schedule of dates;
16 and
17

18 **WHEREAS** Newfoundland Power, the Consumer Advocate and Newfoundland and Labrador
19 Hydro agreed to the proposed Schedule of Dates and Rules of Procedure and the Board is
20 satisfied that it is appropriate to establish the Intervenor, the Schedule of Dates and the Rules of
21 Procedure.
22

23
24 **IT IS THEREFORE ORDERD THAT:**
25

- 26 1. The Intervenor in the Application are as set out in Schedule "A" to this Order.
- 27
28 2. The Schedule of Dates for the Application is approved as set out in Schedule "B" to this
29 Order.
- 30
31 3. The Rules of Procedure for the Application are approved as set out in Schedule "C" to
32 this Order.

DATED at St. John's, Newfoundland and Labrador this 30th day of November, 2015.



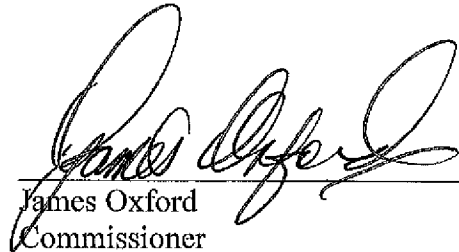
Andrew Wells
Chair & Chief Executive Officer



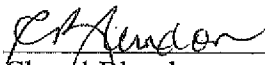
Darlene Whalen, P.Eng.
Vice-Chair



Dwanda Newman, LL.B.
Commissioner



James Oxford
Commissioner



Cheryl Blundon
Board Secretary

Intervenors

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1. **Consumer Advocate**
Thomas Johnson
O'Dea, Earle Law Offices
323 Duckworth Street
St. John's, NL A1C 5X4
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2. **Newfoundland and Labrador Hydro**
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Fax: 737-1782
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Schedule of Dates

1
2
3 **November 2015**
4
5 November 19, 2015 (Thursday) Pre-Hearing Conference
6
7 **December 2015**
8
9 December 1, 2015 (Tuesday) Requests for Information filed (RFIs)
10 December 21, 2015 (Monday) Responses to RFIs filed
11
12 **January 2016**
13
14 January 18, 2016 (Monday) 2nd round of RFIs filed
15 January 26, 2016 (Tuesday) Motions Day (if required)
16 January 28, 2016 (Thursday) Board's Financial Consultants Report filed
17
18
19 **February 2016**
20
21 February 5, 2016 (Friday) Responses to 2nd round of RFIs filed
22 February 18, 2016 (Thursday) Expert Reports and pre-filed evidence filed
23 February 26, 2016 (Friday) RFIs on Expert Reports and pre-filed evidence
24 including Board's Financial Consultants Report
25 Witness lists and issues lists filed
26
27 **March 2016**
28
29 March 8, 2016 (Tuesday) Responses to RFIs on Expert Reports
30 March 10 -15, 2016 Negotiation Period
31 March 22, 2016 (Tuesday) Filing of settlement agreement, updated issues list
32 and witness lists, and proposed order of witnesses
33 March 24, 2016 (Thursday) Final deadline for filing of any outstanding
34 information
35
36
37 March 29, 2016 (Tuesday) Public Hearing begins

1 **Rules of Procedure**

2 **Public Record**

- 3
- 4 1. Unless otherwise directed by the Board, all documents filed with respect to this
5 proceeding shall be placed on the public record.
6
- 7 2. Documents or information may be filed with the Board on a confidential or proprietary
8 nature. These documents must be clearly identified as confidential or proprietary in the
9 enclosing letter and on the document itself. The confidential nature of the document must
10 be clearly explained.
11
- 12 3. Any documents filed on a confidential or proprietary nature will be protected by the
13 Board and will not be released or will only be released subject to conditions set by the
14 Board. A party wishing to challenge the claim of confidentiality or proprietary must
15 notify the Board in writing and the Board shall make a determination whether the
16 documents or information should be treated as confidential or proprietary.
17
- 18 4. The Board is bound by the provisions of the *Access to Information and Protection of*
19 *Privacy Act, RSNL 2002 Chapter A-1.1*. Documents which are determined by the Board
20 to be confidential will be dealt with in accordance with the provisions of this legislation.
21

22 **Filing of Documents**

- 23
- 24 5. (1) All documents shall be filed with the Board Secretary.
25
- 26 (2) Documents may be filed by:
27
- 28 (a) hand delivery;
29 (b) courier service;
30 (c) registered mail;
31 (d) electronic mail; or
32 (e) facsimile.
33
- 34 (3) Filing is accomplished on the date when the Board first receives the submission,
35 whether electronically or in paper format.
36
- 37 (4) When documents are filed electronically, paper copies must be filed within 24
38 hours or the next business day. For those parties located outside of the St. John's
39 area, the Board will allow 3 business days for the filing of paper copies.
40
- 41 (5) All documents filed according to the scheduled dates shall be filed no later than
42 3:00 p.m. on the date stipulated. Documents filed after this time or on a Board
43 holiday shall be considered as filed on the next Board business day.
44
- 45 (6) All documents will have the date and time recorded when received by the Board.

1 **Form of Documents**

- 2
- 3 6. (1) Paper and electronic filings are considered official public record in this
4 proceeding. Electronic copies of all paper documents must be filed with the Board
5 in accordance with Section 5(3) below.
- 6
- 7 (2) All paper documents filed shall be prepared as follows:
- 8
- 9 (a) typed, written or printed on 8½" X 11" letter size paper, 3-hole punched;
10 (b) single or double sided;
11 (c) each page shall be numbered; and
12 (d) where reasonable, each line shall be numbered.
- 13
- 14 (3) All documents filed electronically must be searchable and allow for key-word
15 searching. This will require documents to be scanned with optical character
16 recognition (OCR) or converted to OCR before they are filed with the Board.
- 17
- 18 (4) The electronic copy must be an exact copy of the original signed document,
19 including covering letters.
- 20
- 21 (5) Upon request the Board may consider filing exceptions regarding the form of
22 documents.
- 23

24 **Revisions to Documents**

- 25
- 26 7. (1) A party may revise any document to correct errors or to provide new information
27 before the completion of the hearing.
- 28
- 29 (2) Where all or any part of a document is revised, each revision shall indicate the
30 page(s) revised, the line(s) revised, the number of the revision (i.e. Revision 1),
31 and the date of the revision.
- 32
- 33 (3) Where all or any part of a document is revised, the document must be re-filed
34 electronically in its entirety; however, only the revised pages are required to be
35 filed in paper copy.
- 36
- 37 (4) Where a revision is made to a document the Board may, upon its own motion or
38 upon the request of another party, after receiving submissions of the parties, make
39 any order in respect of the revisions.
- 40

41 **Number of Paper Copies to be Filed**

- 42
- 43 8. Unless otherwise ordered by the Board, a party filing a document with the Board shall:
- 44
- 45 (a) file with the Board Secretary one (1) original signed copy of each

1 document;

- 2 (b) provide eleven (11) copies of the original document to the Board; and
3 (c) serve one (1) copy of each document on the other parties (unless the
4 parties have agreed that paper copies are not required).

5
6 **Charge for Copies**

- 7
8 9. (1) The Board will provide a copy of any document authored by the Board or its
9 consultants at no charge.
10
11 (2) Copies of documents originating or authored by a party should be requested
12 directly from the party.
13
14 (3) One (1) copy of the transcript for each day of the hearing will be provided to each
15 party at no cost.
16
17 (4) Copies of the Legislation can be obtained from the Queen's Printer, viewed at the
18 Board's Office, or viewed on the Board's Website at www.pub.nl.ca.
19
20 (5) The Board may charge copy fees for the cost associated with the reproduction of
21 any other document requested in accordance with the applicable legislation.
22

23 **Information Requests**

- 24
25 10. (1) The parties shall observe the dates set for the issuance and filing of requests for
26 information ("RFIs") and dates for responses to RFIs.
27
28 (2) RFIs shall be:
29
30 (a) labeled with the initials of the party issuing the RFI;
31 (b) designated so as to provide notice of to whom the RFI is directed
32 (i.e. PUB-NP-001; PUB-CA-001); and
33 (c) numbered consecutively with whole numbers and should not contain sub-
34 numbering such as a, b, c, or i, ii, iii.
35
36 (3) Responses to RFIs shall be:
37
38 (a) filed as individual pages; and
39 (b) numbered on the top right-hand corner of each page with the RFI number
40 and the page number. If the response has an attachment, the RFI number
41 and the attachment number as well as the number of pages should be
42 included on the top right-hand corner of each page.
43
44 (4) RFIs, and responses to RFIs, shall constitute part of the record in the proceeding
45 and will be considered to be evidence in the proceeding.

- 1 (5) Where directed by the Board, a party providing a response to an RFI shall make a
2 witness or witnesses available for cross-examination to speak to the information
3 provided in the response.
4

5 **Service of Documents**

- 6
7 11. The Board may direct to whom service shall be provided.
8

9 **Public Viewing**

- 10
11 12. Interested persons may view any or all documents filed in this proceeding, except
12 confidential or private information, on the Board's website (www.pub.nl.ca), or at the
13 Board's office by contacting the Board Secretary.
14

15 **Time**

- 16
17 13. The parties shall observe the schedule for the proceeding established by the Board as
18 amended from time to time.
19
20 14. All references to time shall be clear days, that is the first and the last day shall be
21 excluded.
22

23 **Motions**

- 24
25 15. (1) Motions must be filed in writing with the Board and served upon the other parties
26 two (2) business days before the Motions Day.
27
28 (2) The responding parties must file with the Board and serve upon the other parties
29 response briefs one business day before the Motions Day.
30

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

- 32
33 16. (1) Pre-filed testimony should be adopted as evidence by the witness in sworn
34 testimony.
35
36 (2) Direct examination should be limited to matters set out in the witness pre-filed
37 testimony. The Board may allow a witness to provide supplementary evidence or
38 may restrict direct testimony where it is irrelevant, redundant or not helpful to the
39 Board in making its decision.
40
41 (3) Direct evidence may be presented by way of a panel of witnesses where prior
42 notice has been given to the Board Secretary and the parties. When examining a
43 panel of witnesses Counsel shall put each question to a particular witness on the
44 panel. Co-counsel may examine the same witness, or panel of witnesses, provided
45 notice is given to the Board Secretary and the parties prior to the start of the cross-

1 examination of the witness.

- 2
- 3 (4) Co-counsel should not examine the same witness on the same subject matter.
- 4
- 5 (5) The party calling the witness shall be afforded an opportunity for re-direct
- 6 examination and all parties shall have an opportunity to pose questions in relation
- 7 to new matters arising from questions of the Board.
- 8
- 9 (6) (a) A party wishing to examine or cross-examine a witness on a document that
- 10 is not:
- 11
- 12 (i) already part of the record of the proceeding;
- 13 (ii) a portion of a transcript of the witness' own prior testimony; or
- 14 (iii) an Order of the Board;
- 15
- 16 shall file one (1) original and eleven (11) copies of the document with the
- 17 Board and serve an electronic copy to each party by 3:00 p.m. on the last
- 18 business day before the examination or cross-examination is to take place.
- 19
- 20 (b) A party wishing to examine or cross-examine a witness on a document that
- 21 has previously been filed with the Board shall file one (1) original and five
- 22 (5) copies of the document with the Board along with a cover letter stating
- 23 which matter the document had previously been filed in. An electronic
- 24 copy shall be served to each party by 3:00 p.m. on the last business day
- 25 before the examination or cross-examination is to take place.
- 26
- 27 (7) If more than one document is being filed, each document shall be filed in separate
- 28 groups (e.g., if a party files 5 separate documents, all copies of document 1 must
- 29 be filed together, all copies of document 2 must be filed together and so on) as
- 30 each document may not be referenced at the same time during cross-examination.
- 31
- 32 (8) Where the witness adopts the document as part of the witness' testimony it will be
- 33 marked as an exhibit to their testimony.
- 34
- 35 (9) Where a document is not adopted as part of the witness' testimony the document
- 36 will be:
- 37
- 38 (a) entered as an information item; or
- 39 (b) if the parties consent, entered as a consent exhibit.
- 40

41 **Procedures for Responding to Requests for Undertakings of Witnesses**

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- 43 17. (1) Counsel may ask undertakings of the witness/witness panel during cross-
- 44 examination.

- 1 (2) Responses to undertakings shall be filed within 7 days. Where it is not possible to
2 file the responses within that time frame, counsel for the responding party shall
3 advise the Board of the time required for the responses to be filed.
4
- 5 (3) All responses to undertakings must be filed no later than 10 days prior to the
6 deadline for final submissions.
7
- 8 (4) Responses to undertakings may be filed:
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- 10 (a) through the respondent's counsel during hearing hours; or
11 (b) electronically after hearing hours. If responses are filed electronically after
12 hearing hours, a cover letter and electronic copies shall be provided to the
13 Board and parties.
14
- 15 (5) Responses to undertakings shall be:
16
- 17 (a) labeled with the undertaking number;
18 (b) numbered on the top right-hand corner of each page with the undertaking
19 number and the page number. If the response has an attachment, the
20 undertaking number and the attachment number as well as the number of
21 pages should be included on the top right-hand corner of each page.
22 (c) filed according to Sections 4 and 5 above regarding the filing of
23 documents and the form of documents.
24
- 25 (6) If more than one undertaking response is being filed, one of each response shall be
26 filed together as a package (e.g., if a party files 5 separate responses, a package
27 shall contain responses 1, 2, 3, 4 and 5) as a copy of each response must be
28 distributed to each of the parties during the hearing.
29
- 30 (7) The Board will maintain the official Undertaking Listing. The listing will be
31 updated daily and distributed to the parties.
32
- 33 (8) Upon receipt of the electronic copy of the responses to undertakings the Board
34 will post them to its website.
35

36 **Other**

- 37
- 38 18. Unless otherwise ordered by the Board, the rules of procedure set out in *Regulation 39/96*
39 apply in this proceeding to the extent that they are consistent with these Rules.
40

41 **Exceptions**

- 42
- 43 19. The Board may dispense with, vary or supplement any provisions of these Rules on those
44 terms the Board considers necessary.