

HAND DELIVERED

August 14, 2015

Board of Commissioners  
of Public Utilities  
P.O. Box 21040  
120 Torbay Road  
St. John's, NL A1A 5B2

Attention: G. Cheryl Blundon  
Director of Corporate Services  
and Board Secretary

Ladies & Gentlemen:

**Re: Newfoundland Power's 2016 Capital Budget Application – Brief of Argument**

Enclosed are the original and 12 copies of Newfoundland Power's Brief of Argument.

For convenience, the Brief of Argument is provided on three-hole punched paper.

A copy of this letter, together with enclosure, has been forwarded directly to Mr. Geoffrey Young, of Newfoundland and Labrador Hydro and Mr. Thomas Johnson the Consumer Advocate.

If you have any questions regarding the enclosed, please contact the undersigned at your convenience.

Yours very truly,



Gerard M. Hayes  
Senior Counsel

Enclosures

c. Geoffrey Young  
Newfoundland and Labrador Hydro

Thomas Johnson  
O'Dea Earle Law Offices

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

**IN THE MATTER OF** capital expenditures and rate base of Newfoundland Power Inc.; and

**IN THE MATTER OF** an application by Newfoundland Power Inc. for an order pursuant to Sections 41 and 78 of the Act:

- (a) approving a 2016 Capital Budget of \$107,028,000;
- (b) approving certain capital expenditures related to multi-year projects commencing in 2016; and
- (c) fixing and determining a 2014 rate base of \$964,930,000.

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**BRIEF OF ARGUMENT  
OF  
NEWFOUNDLAND POWER INC.**

**AUGUST 14, 2015**

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## 1.0 INTRODUCTION

Newfoundland Power's 2016 Capital Budget was filed with the Board of Commissioners of Public Utilities (the "Board") on June 23, 2015. The proposed 2016 Capital Budget of \$107.0 million is larger than the 2015 Capital Budget, principally due to the requirement to replace the Pierre's Brook penstock.

The 2016 Capital Budget Application (the "Application") seeks an Order of the Board:

- (i) pursuant to Section 41(1) of the *Public Utilities Act*, approving proposed 2016 capital expenditures totalling \$107,028,000; (ii) pursuant to Section 41(1) of the *Public Utilities Act*, approving proposed 2017 capital expenditures of \$4,957,000 (iii) pursuant to Section 78 of the *Public Utilities Act*, fixing and determining Newfoundland Power's average rate base for 2014 in the amount of \$964,930,000.

## 2.0 OVERVIEW

To provide context for the Board's consideration of the Application, this submission will (i) review the legislative framework under which the Application is brought; (ii) address specific compliance requirements; (iii) summarize the process engaged in by the Board and participants in the consideration of the Application; (iv) address matters raised in the submissions of intervenors; and (v) conclude with Newfoundland Power's formal submissions with respect to the Application.

### 3.0 LEGISLATIVE FRAMEWORK

Section 37(1) of the *Public Utilities Act* states that a public utility shall provide service and facilities that are reasonably safe and adequate and just and reasonable. Section 37(1) is a cornerstone of Newfoundland Power's obligation to serve its customers.

Section 3(b) of the *Electrical Power Control Act, 1994* states that all sources and facilities for the production, transmission, and distribution of power in the province should be managed and operated in a manner that would result in:

- (i) the most efficient production, transmission, and distribution of power,
- (ii) consumers in the province having equitable access to an adequate supply of power, and
- (iii) power being delivered to customers in the province at the lowest possible cost consistent with reliable service.

Section 3(b) does not create a hierarchy between these three principles; rather, each is equally important in the management and operation of electrical facilities in the province.

Section 41(1) of the *Public Utilities Act* requires that Newfoundland Power submit to the Board "an annual capital budget of proposed improvements and additions to its property" for the Board's approval.

Section 41(3) of the *Public Utilities Act* prohibits a utility from proceeding with an improvement or addition in excess of \$50,000 or a lease in excess of \$5,000 per year without the Board's prior approval.

1 The principal focus of this proceeding is whether Newfoundland Power's proposal for  
2 \$107.0 million in capital expenditures in 2016 is reasonably required for it to meet its statutory  
3 obligation to serve its approximately 260,000 customers.

4  
5 Newfoundland Power submits that its 2016 Capital Budget represents the capital expenditures  
6 necessary to maintain its electrical system and to continue to meet its statutory obligations under  
7 Section 37(1) of the *Public Utilities Act* and Section 3(b) of the *Electrical Power Control Act*,  
8 1994.

#### 9 10 **4.0 COMPLIANCE MATTERS**

##### 11 **4.1 Board Orders**

12 In Order No. P.U. 40 (2014) (the "2015 Capital Order"), the Board required specific information  
13 to be filed with the Application. The Application complies with the requirements of the 2015  
14 Capital Order.

15  
16 In Order No. P.U. 35 (2003) (the "2004 Capital Order"), the Board required specific information,  
17 and in particular a 5-year capital plan, to be provided with the Application. The Application  
18 complies with the requirements of the 2004 Capital Order.

19  
20 In Order No. P.U. 19 (2003) (the "2003 Rate Order"), the Board required that evidence relating  
21 to deferred charges and a reconciliation of average rate base to invested capital be filed with the  
22 Application. The Application complies with the requirements of the 2003 Rate Order.

1 In Order No. P.U. 32 (2007) (the “2008 Rate Order”), the Board approved Newfoundland  
2 Power’s calculation of rate base in accordance with the Asset Rate Base Method. The  
3 Application complies with the requirements of the 2008 Rate Order.  
4

#### 5 **4.2 The Capital Budget Application Guidelines**

6 In the Capital Budget Application Guidelines dated October 2007 (the “CBA Guidelines”), the  
7 Board outlined certain directions on how to define and categorize capital expenditures. Although  
8 compliance with the CBA Guidelines necessarily requires the exercise of a degree of judgment,  
9 the Application, in Newfoundland Power’s view, complies with the CBA Guidelines while  
10 remaining reasonably consistent and comparable with past filings.  
11

12 Section 2 of the *2016 Capital Plan* provides a breakdown of the 2016 Capital Budget by  
13 definition, classification, costing method and materiality segmentation as required in the CBA  
14 Guidelines.  
15

### 16 **5.0 PROCESS**

#### 17 **5.1 Proceedings of Record**

18 On July 20, 2015, the Board issued 9 Requests for Information (“RFI’s”) to Newfoundland  
19 Power. On the same date, the Consumer Advocate issued 31 RFIs.  
20

21 Newfoundland Power responded to the 40 RFIs on July 30, 2015.  
22

23 No intervenor evidence was filed in the proceeding, and no intervenor requested a technical  
24 conference or formal hearing of the Application.

## 5.2 Intervenor's Submissions

On August 4, 2015 Hydro advised in its written submission that they had no comments on the Application. On August 7, 2015, the Consumer Advocate filed a written submission with the Board (the "Consumer Advocate's Submission").

The Consumer Advocate's Submission addressed the vehicle replacement criteria employed by the Company for the *Purchase Vehicles and Aerial Devices* project.

Following is Newfoundland Power's response to the Consumer Advocate's Submission.

## 6.0 RESPONSE TO CONSUMER ADVOCATE'S SUBMISSION

### 6.1 General

In the 2015 Capital Order, the Board directed Newfoundland Power to provide, in its next capital budget application where expenditures are proposed in relation to vehicle replacements, information on the vehicle replacement policies for other Canadian utilities.

Reference: *Order No. P.U. 40 (2014)*, page 6.

In the Application, Newfoundland Power is proposing 2016 capital expenditures of \$3.258 million for vehicle replacements.

Reference: *2016 Capital Budget Application*, Schedule B, page 69 of 98.

The report *5.1 Vehicle Replacement Criteria* submitted with the Application provides the information requested by the Board in the 2015 Capital Order. The report outlines the results of a survey of the vehicle replacement policies of Canadian electrical utilities carried out by



Newfoundland Power. The report includes a comparison of the vehicle replacement policies of the responding utilities to Newfoundland Power's practices.

Reference: *5.1 Vehicle Replacement Criteria*.

## **6.2 Vehicle Assessment Process**

Newfoundland Power vehicles are evaluated for replacement when they reach a threshold age or level of usage. Light duty and heavy fleet vehicles are considered for replacement at 10 years of age or usage of 250,000 kilometres. For passenger vehicles, the threshold is 5 years of age or 150,000 kilometres.

When a Newfoundland Power vehicle reaches the prescribed age or usage (kilometres driven) threshold, its condition is assessed to ensure it can continue to provide safe and reliable transportation for employees providing service to customers. Vehicles reaching the prescribed thresholds are evaluated on a number of criteria, such as overall condition, maintenance history and immediate repair requirements, to determine whether replacement is the least cost option.

The decision to replace a vehicle is based on the condition of the vehicle, and not on the age or usage thresholds. If the condition evaluation determines the vehicle has remaining useful service life, the vehicle will remain in service.

Reference: *2016 Capital Budget Application, Schedule B, Purchase Vehicles and Aerial Devices*, page 71 of 98; *5.1 Vehicle Replacement Criteria*, page 4.

Actual replacements of all classes of Newfoundland Power vehicles occur later, on average, than the age criteria used to initiate the condition evaluation. Similarly, vehicle usage at replacement exceeds, on average, the threshold criteria.

1 Reference: *5.1 Vehicle Replacement Criteria*, page 4-5.

### 3 **6.3 Survey of Vehicle Replacement Policies**

4 A survey of 12 Canadian electrical utilities completed by Newfoundland Power revealed that all of  
5 the survey respondents evaluate vehicles for replacement based on age and/or usage criteria. Not  
6 all of the responding utilities use both criteria to trigger assessments of all classes of vehicles.

7  
8 For example, 5 of the 12 utilities surveyed rely upon age as the primary determinant for  
9 replacement of heavy duty line vehicles and do not use kilometres driven as a criterion. Similarly,  
10 2 of the 12 utilities surveyed rely upon kilometres driven as the primary determinant for  
11 replacement of light duty line vehicles and do not use age as a criterion.

12 Reference: *5.1 Vehicle Replacement Criteria*, page 2.

13  
14 The results of the survey indicate that Newfoundland Power's approach to vehicle replacement is  
15 consistent with current Canadian utility practice.

16 Reference: *5.1 Vehicle Replacement Criteria*, page 1.

### 18 **6.4 Consumer Advocate's Submission**

19 The Consumer Advocate's Submission observes that the vehicle retirement data provided by  
20 Newfoundland Power shows that many of its passenger vehicles have been retired prior to the  
21 usage threshold used by some of the other utilities surveyed to trigger vehicle assessments.

22 Reference: Consumer Advocate's Submission, page 4.

1 While that observation is correct, the age at retirement of the passenger vehicles identified in the  
2 Consumer Advocate's Submission ranges from 6 to 10 years in service, with an average age at  
3 retirement of approximately 7.5 years.

4 Reference: Data for vehicle units 57 forward provided in response to Request for Information  
5 CA-NP-002.  
6

7 The Consumer Advocate submits that Newfoundland Power should be ordered to review its vehicle  
8 replacement strategy and to align itself with the rest of Canada, and in particular Atlantic utilities in  
9 terms of its kilometre assessment criteria.

10 Reference: Consumer Advocate's Submission, page 5.  
11

12 A higher usage (kilometre) threshold for assessment would not have resulted in later retirements  
13 for the passenger vehicles identified in the Consumer Advocate's submission. For each such  
14 vehicle, Newfoundland Power's condition assessment process would have been triggered once  
15 the vehicle reached the 5-year age threshold. Irrespective of kilometres driven, the identified  
16 vehicles would have been assessed on Newfoundland Power's vehicle evaluation criteria,  
17 including overall condition, maintenance history and immediate repair requirements, and would  
18 have been retired on the basis of that assessment.

19 Reference: *Application, Schedule B, Purchase Vehicles and Aerial Devices*, page 71 of 98.  
20

21 The Consumer Advocate submits that "it would be instructive to have data from each of the utilities  
22 surveyed, if available, as to the age and kilometers of vehicles when actually replaced to allow a  
23 comparison with Newfoundland Power's criteria of assessment vs. status at replacement date" as  
24 set out in *5.1 Vehicle Replacement Criteria*. The Consumer Advocate submits that Newfoundland  
25 Power should be required to survey other utilities to obtain the age and usage of vehicles when

1 actually replaced and provide this information in its next Capital Budget Application. The  
2 Consumer Advocate suggests that a comparison would help to evaluate Newfoundland Power's  
3 vehicle retirement policies and determine whether it is in line with other utilities.

4 Reference: Consumer Advocate's Submission, page 5.

5  
6 In Newfoundland Power's view, such a comparison would not be instructive. The report  
7 *5.1 Vehicle Replacement Criteria* confirms the Company's vehicle retirement policies are in line  
8 with other Canadian utilities. The age and usage criteria used by Newfoundland Power are  
9 broadly consistent with the average of similar criteria used by the Canadian electrical utilities  
10 surveyed, and consistent with the average of those used by Atlantic Canadian electrical utilities.

11 Reference: *5.1 Vehicle Replacement Criteria*, page 9.

12  
13 The Consumer Advocate submits that the Company should be ordered to record the kilometre  
14 usage of all vehicles upon retirement.

15 Reference: Consumer Advocate's Submission, page 5.

16  
17 Newfoundland Power has implemented a process to ensure that the kilometre usage of all  
18 vehicles is recorded when they are retired and will provide that information as and when required  
19 by the Board.

## 20 21 **6.5 Conclusion**

22 Decisions to replace Newfoundland Power vehicles are based on condition assessments of  
23 individual vehicles, and not on age and usage criteria. Individual condition assessments ensure  
24 that vehicles are replaced when they have reached the end of their useful service lives. This is

1 consistent with the least cost provision of electrical service, and consistent with the practices of  
2 other Canadian electrical utilities.

3  
4 The Consumer Advocate submits that the kilometre thresholds used by Newfoundland Power to  
5 schedule detailed condition assessments of vehicles should be increased to align with those of  
6 other Canadian utilities. This appears to be based on an assumption that changing the usage  
7 threshold would result in later replacement of those vehicles. It further appears to assume that  
8 replacement of vehicles later than indicated by Newfoundland Power's vehicle condition  
9 assessments would be consistent with the least cost provision of electrical service. There is no  
10 evidence in this proceeding to support either assumption.

11  
12 The Consumer Advocate's written submission does not take specific issue with the 2016 capital  
13 expenditures proposed in the *Purchase Vehicles and Aerial Devices* project. The uncontroverted  
14 evidence in this proceeding is that the purchase of vehicles and aerial devices proposed for 2016  
15 is necessary to replace vehicles and aerial devices that have reached the end of their useful lives.  
16 Accordingly, the Board should approve the purchase of vehicles and aerial devices proposed in  
17 the Application.

## 18 19 **7.0 CONCLUSIONS**

### 20 **7.1 Capital Projects**

#### 21 ***General***

22 The projects presented in Newfoundland Power's 2016 Capital Budget Application are necessary  
23 to: respond to customer growth and changes in customer requirements; replace deteriorated,  
24 defective or obsolete equipment; respond to legislative and regulatory requirements; address

1 safety and environmental issues; and maintain or improve customer service levels and  
2 operational efficiency gains.

3  
4 No specific challenge has been made to the numerous engineering judgments and assessments  
5 that form the basis of the capital expenditures proposed in Newfoundland Power's 2016 Capital  
6 Budget.

7  
8 Newfoundland Power's proposed capital expenditures for 2016 and 2017 are necessary to  
9 provide service to customers that is safe and adequate and just and reasonable, and they are  
10 consistent with the provision of least cost electrical service.

11  
12 ***Newfoundland Power's Capital Management Practices***

13 To provide a broad context for the Board's consideration of the Application, Newfoundland  
14 Power's *2016 Capital Plan* provides overviews of (i) the Company's capital management  
15 practice and how it is reflected in its annual capital budgets, (ii) the 2016 capital budget and (iii)  
16 the 5-year capital outlook through 2020.

17  
18 The *2016 Capital Plan* contains an overview of the Company's capital management practices.  
19 The increase in forecast annual capital expenditure reflects inflation and requirements for  
20 specific projects related to replacement of deteriorated facilities, meeting customer and load  
21 growth, replacing the Company's SCADA system and a new portable generator. Otherwise  
22 annual expenditure through the forecast period is broadly consistent on an inflation adjusted  
23 basis with that in the period 2011 through 2015.

24 Reference: *2016 Capital Plan*.

**Sound Engineering Judgment**

The provision of service and facilities which are “reasonably safe and adequate and just and reasonable” as required by Section 37(1) of the *Public Utilities Act* requires the exercise of judgment. In particular, the timing, necessity and appropriateness of the investment to meet the obligation to serve on a least cost basis involve sound engineering judgment.

To assist the Board in determining whether the engineering judgments reflected in the 2016 Capital Budget are sound, it is submitted that there was no evidence before the Board in this proceeding that:

- (i) contradicts the engineering judgments reflected in the capital projects presented in the 2016 Capital Budget;
- (ii) demonstrates reasonable alternatives that were not considered by Newfoundland Power; or
- (iii) demonstrates that not proceeding with a particular capital project is a preferable alternative.

**Submission**

Newfoundland Power submits that the 2016 Capital Budget contained in the Application represents the capital expenditures required to meet its statutory obligations, including the delivery of electrical power at the lowest possible cost consistent with reliable service. Pursuant to Section 41 of the *Public Utilities Act*, the 2016 Capital Budget should be approved in its entirety by the Board.

**7.2 Rate Base*****General***

Newfoundland Power has requested that the Board fix and determine the 2014 average rate base for the purpose of regulatory continuity and certainty, in the same manner as the Board has exercised this regulatory supervisory power since 1999.

Reference: Order No. P.U. 24 (2000-2001).

Newfoundland Power's actual average rate base for 2014 is shown in Schedule D to the Application.

The Board's financial consultants, Grant Thornton LLP, have reviewed the calculation of Newfoundland Power's 2014 actual average rate base as shown in Schedule D to the Application, and confirmed that it is accurate and in accordance with established practice and Board Orders.

Reference: Grant Thornton LLP, Report to the Board re *Newfoundland Power Inc. 2016 Capital Budget Application*, July 31, 2015.

***Submission***

Based upon the evidence before the Board and pursuant to section 78 of the *Public Utilities Act*, the Board should fix and determine Newfoundland Power's average rate base for 2014 at \$964,930,000.



**RESPECTFULLY SUBMITTED** at St. John's, Newfoundland and Labrador, this 14<sup>th</sup> day of August, 2015.



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