

1 **Q. Is NP aware that in Alberta the utilities claim to be exposed to the risks of assets**
2 **that are no longer “used and useful” being taken out of the rate base? Can NP**
3 **indicate whether it regards such risk as material for itself and whether this**
4 **represents a material difference in risk between Alberta electric distribution utilities**
5 **and itself?**

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7 A. Newfoundland Power is aware generally of the Supreme Court of Canada’s decision in
8 *ATCO Gas and Pipelines Limited v. Alberta (Energy and Utilities Board)*, 2006 SCC 4.
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10 The Supreme Court of Canada’s decision in *ATCO Gas and Pipelines Limited v. Alberta*
11 *(Energy and Utilities Board)*, 2006 SCC 4 was based upon legislation in the Province of
12 Alberta. This decision should be considered in light of the more recent Supreme Court of
13 Canada decisions in *Ontario (Energy Board) v. Ontario Power Generation Inc.*, 2015
14 SCC 44 and *ATCO Gas and Pipelines Limited v. Alberta (Utilities Commission)*, 2015
15 SCC 45, both of which dealt with prudence disallowances and suggest provincial
16 regulators have significant latitude in applying judgement in the establishment of just and
17 reasonable rates.
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19 In *Ontario (Energy Board) v. Ontario Power Generation Inc.*, 2015 SCC 44, the
20 Supreme Court of Canada upheld the Ontario Energy Board’s disallowance of
21 \$145 million in labor costs on the basis of imprudence.
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23 The Board in this Province has exercised its regulatory judgement in recent years to
24 disallow existing utility assets from rate base on a prudency basis. In Order
25 No. P.U. 13 (2016), the Board disallowed additions to Newfoundland and Labrador
26 Hydro’s average rate base of approximately \$8.2 million in 2014 and \$11.8 million in
27 2015, respectively.¹
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29 Newfoundland Power observes that various Canadian utility regulators, including the
30 regulator in Newfoundland and Labrador, have exercised their judgement in disallowing
31 costs in recent years. Newfoundland Power has not performed a relative risk assessment
32 with other Canadian distribution utilities on the specific subject of regulatory
33 disallowances.

¹ See Grant Thornton’s report, *Board of Commissioners of Public Utilities Financial Consultants Report Newfoundland and Labrador Hydro Compliance Application, Table 7: Average Rate Base, Return on Rate Base and Rate of Return on Average Rate Base 2014 & 2015 Revenue Deficiency*, page 18.