

# Office of the Consumer Advocate

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October 12, 2022

Board of Commissions of Public Utilities  
120 Torbay Road, P.O. Box 2140  
St. John's, NL A1A 5B2

**Attention: G. Cheryl Blundon, Director of  
Corporate Services / Board Secretary**

Dear Ms. Blundon:

**Re: Newfoundland Power's 2023 Capital Budget Application**

Further to the above-captioned, enclosed please find the Consumer Advocate's submission re Issues for Oral Hearing.

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

Yours truly,



Dennis Browne, KC  
Consumer Advocate

Encl.  
/bb

cc **Newfoundland & Labrador Hydro**  
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**Board of Commissioners of Public Utilities**  
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**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 for a total of  
\$123.5 million annually:

- (a) approving single-year 2023 capital  
expenditures in the amount of \$93,292,000;
- (b) approving multi-year projects with capital  
expenditures of \$10,483,000 in 2023 and  
\$10,645,000 in 2024; and
- (c) fixing and determining a 2021 rate base of  
\$1,202,946,000.

**CONSUMER ADVOCATE’S ISSUES FOR ORAL HEARING**  
**(Submitted October 12, 2022)**

1. On the 29<sup>th</sup> of June, 2022 Newfoundland Power filed its 2023 Capital Budget Application with the Board. By its Application, Newfoundland Power is seeking \$123,463,000 of ratepayers’ money to pay for their proposed budget.
2. It is worthy to Note that Newfoundland Power’s average rate base in 2021 was approximately \$1.2 billion.
3. By way of comparison, Newfoundland and Labrador Hydro’s rate base in 2021 was approximately \$2.3 billion, however, by their recently filed 2023 Capital Budget Application Hydro has indicated that its able to manage its operations with a requested approximately \$90 million 2023 annual budget.
4. In other words, Hydro has twice the rate base of Newfoundland Power, yet Newfoundland Power’s Capital Budget Application for 2023 exceeds Hydro’s by approximately \$33 million.

### Recent Developments in the Province relating to Electricity Supply

5. On October 3, 2022, Hydro released its Reliability and Resource Adequacy Study (“RRAS”). The Reliability and Resource Adequacy Study has concluded that the Muskrat Falls Project has, and will continue to fail to be a reliable source of electricity for the island portion of the province due to the inadequacy of the Labrador Island Link (“LIL”), which inadequacies will not be remedied in the near or distant future.
6. The cost of the Muskrat Falls Project, which now appears to be a stranded asset, insofar as island ratepayers are concerned, is estimated to be approximately \$12.5 billion and it is the ratepayers who are expected to pay this cost.
7. To add insult to injury, in early October as well, a report was released by the province’s Auditor General regarding spending practices by Nalcor while the Muskrat Falls Project was being undertaken. The Auditor General has identified gross abuses of the public purse by Nalcor while it was purporting to undertake the Muskrat Falls Project to provide electrical power at “the lowest possible cost consistent with reliable service”, as required by the province’s *Electrical Power (Control) Act*. The massive cost of the Muskrat Falls Project, which no doubt can be partially attributed to the unbridled spending of Nalcor as identified by the Auditor General, combined with the failure of the project to provide reliable electrical supply to the island, demonstrates that the Muskrat Falls Project provided the direct opposite of what was required by the province’s *Electrical Power (Control) Act*.
8. The Consumer Advocate submits therefore that there is an extremely high sensitivity on the part of electrical consumers in the province to ensure that significant expenditures by a utility be subject to transparent, effective oversight.
9. Having regard to the sheer scale of Newfoundland Power’s current application for \$123 million, and the relentless trajectory of significant capital budget costs year over year, the ratepayers are entitled to complete justification from Newfoundland Power for its expenditures to ensure that the *Electrical Power (Control) Act* is complied with and that Newfoundland Power is delivering power to consumers in the province at “the lowest possible cost consistent with reliable service”. It is the Consumer Advocate’s further position that the Board should order a public hearing on the Capital Budget items listed below, which clearly have not been fully justified by Newfoundland Power, despite the RFI process.

10. In the Consumer Advocate's submission, **the Issues** arising in the proceeding are as follows:

(1) Financial aspects of projects proposed in the application.

The Consumer Advocate continues to believe that in addition to NPV, payback periods provide useful information to the Board and consumers. Long payback periods, as with the accelerated LED street lighting project, indicate that benefits will not accrue for a long time. Projected benefits well into the future are far from being assured. In general, there is considerably more uncertainty the further into the future. This is particularly so in light of government policies relating to a carbon-free society and Hydro's recently released Reliability and Resource Adequacy Study - 2022 Update.

(2) Projects including the addition of reclosers, the transmission line 55L rebuild and the refurbishment of distribution feeder SUM-01.

The Consumer Advocate remains unclear as to the purpose and need for these projects. Newfoundland Power has persistently identified cost and reliability as the highest priorities for consumers, and suggests that these projects have reliability and maintenance cost savings components, but the reliability improvement, the risk associated with project deferral and the expected improvement in annual maintenance costs are not quantified. These projects have not been sufficiently justified to warrant Board approval.

- With respect to transmission line 55L rebuild, it strikes us as odd that annual inspections, the most recent of which was only a year ago, did not identify the sudden need to replace 50% of the poles. Neither are we clear on why the entire line must be replaced rather than only the damaged poles. The response to CA-NLH-074 (Hydro's 2023 Capital Budget Application) indicates that Hydro has never had such a high rate of pole rejection in a single inspection cycle, and does not expect to in the future.
- With respect to the reclosers project, in CA-NP-045 it is stated "*both Liberty and Newfoundland Power considered cost relative to service improvement for the installation of automated downline reclosers.*" Liberty Recommendation 2.4 states (Footnote 3) "*Investigate the*

*installation of downstream feeder reclosers for the purpose of improving distribution SAIFI and SAIDI indices, in addition for reducing cold load pick up difficulties, with priorities given to feeders based on installation costs versus anticipated avoided customer interruptions.”* However, in CA-NP-151 Newfoundland Power states *“No, Newfoundland Power has not proposed the addition of downline reclosers in 2023 on the basis of SAIDI and SAIFI improvements as recommended by Liberty.”* In other words, while using Liberty’s recommendation to justify the project, Newfoundland Power did not follow Liberty’s recommendation and is not proposing the reclosers project to improve SAIDI and SAIFI, but rather to improve *“resiliency of its electrical system to severe weather and as an efficient means through which to maintain overall levels of service reliability for customers.”* This is not consistent with Newfoundland Power’s reliability criteria and customers have not indicated that they want Newfoundland Power to spend capital to improve reliability during severe storm events. This would be prohibitively expensive, and be the equivalent of writing a blank check to Newfoundland Power. Newfoundland Power does not include outages from severe storms in its SAIDI and SAIFI statistics and neither have customers indicated a willingness to pay for such improvements.

- With respect to the distribution feeder SUM-01 project, CA-NP-176 indicates that Newfoundland Power is proposing this project to improve SAIDI and SAIFI, but does not: 1) quantify the expected reliability improvement, 2) quantify the risk of deferring the project, 3) quantify the expected improvement in maintenance costs, 4) identify customer complaints pertaining to the reliability of this section of the line, or 5) provide the expected pay-back period for the project. Given the importance of reliability to customers, and Newfoundland Power’s position that the project is justified on the basis of improved reliability, how can the Board approve the project in the absence of such information?
- (3) The continual increase in Newfoundland Power’s capital spending, including the expected \$33 million (from \$43 million in 2022 to \$76 million in 2025, a 77% increase) in the renewal category of capital spending.

It appears to the Consumer Advocate that: 1) Newfoundland Power will continue to increase capital spending unless the Board signals a concern otherwise, and 2) Newfoundland Power's proposed asset management review will be used to justify further increases in spending rather than to meet the requirements set out in the Provisional Capital Budget Application Guidelines.

- (4) Capital spending on utility-owned charging infrastructure paid for by electricity consumers, particularly in light of the recently released Reliability and Resource Adequacy Study - 2022 Update.

Should the province's electric utilities be pushing increased electricity use when Holyrood might be the source of supply for such usage? The benefits of the proposed electrification program require further review with an emphasis on conservation and demand management programs rather than programs to increase consumption. The ECDM programs were apparently developed on the basis of a low marginal cost of energy and high marginal cost of capacity for the island system but now the 2022 Update suggests a high marginal cost of energy as well as high marginal cost of capacity.

### Conclusion

11. As stated by Midgard Consulting at page 18 of its' Report:

“The tension between the needs of ratepayers and utilities is recognized in the adversarial structure of typical Canadian regulatory processes. The regulatory board adjudicates Applications in consideration of both the evidence provided by the utility Applicant and the questions and counter-point arguments submitted by intervenors (who represent ratepayers or other interest groups).”

12. Midgard also states at page 18:

To function effectively and ensure the necessary tension between interests, a capital budget approval process requires the applicant to provide complete and accurate supporting information for the planned investments. It is important to recognize that even if the application is full, complete and accurate, a significant informational asymmetry always exists between the applicant (i.e. utility) and the intervenors and regulatory Board.

## 13. And Midgard writes:

The utility is responsible both for managing and prioritizing ongoing and one-time capital projects, as issues emerge, and the regulatory board is responsible for providing spending direction and social context for utility management decision-making.

14. It is our submission that an oral hearing addressing the above topics is necessary if the Board is to make an informed decision. Newfoundland Power's submission lacks the evidentiary quality required for approval of these expenditures by ratepayers. We are prepared to participate in this hearing in a timely fashion, which we anticipate would take two (2) days.

**DATED** at St. John's, Newfoundland and Labrador, this 12<sup>th</sup> day of October, 2022.

Per:



**Dennis Browne, KC**

**Consumer Advocate**

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