

**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 for an Order pursuant to  
Sections 41 and 78 of the Act

- (a) approving its 2009 Capital Budget of  
\$61,571,000; and
- (b) fixing and determining its average rate  
base for 2007 in the amount of  
\$793,703,000

**To Board of Commissioners of Public Utilities**

**Suite E210, Prince Charles Building  
120 Torbay Road  
P.O. Box 12040  
St. John’s, NL A1A 5B2  
Attention: Ms. G. Cheryl Blundon  
Direct of Corporate Services & Board Secretary**

## **SUBMISSION OF THE CONSUMER ADVOCATE**

### **Introduction**

1. In the Board’s Capital Budget Application Guidelines as revised in October of 2007,  
  
the following Policy Statement is made:

#### **III. Policy Statement**

In fulfilling its mandate with respect to the supervision of the capital  
expenditures of a utility the Board balances the interests of consumers

and utility in the context of the applicable legislative provisions. In balancing these interests the Board is committed to the efficient and effective review of expenditures in keeping with the provision of least cost reliable service.”

2. It is submitted that the need for an efficient and effective review of capital expenditures in keeping with the provision of least cost reliable service and the need to balance the interests of consumers and utility, while ever present, takes on even more importance in the context of the present and coming years.
3. In 2008, the Budget approved by Order No. P.U. 27 (2007) and P.U. 3 (2008) was \$51,640,000. In 2009, the proposed Budget is \$61,571,000. In its 2009 Capital Plan, the Company states at p. 7:

“The Company plans to invest \$344 million in plant and equipment during the 2009 through 2013 period. On an annual basis, capital expenditures are expected to average approximately \$68.7 million and range from a low of \$61.6 million in 2009 to a high of \$72.2 million in 2011 ... Overall planned capital expenditures over the 5-year period in 2009 to 2013 are expected to be greater than those in the 5-year period from 2004 to 2008. This is principally the result of inflation in utility infrastructure construction costs; the inclusion of power transformers for load growth; and forecast requirement for mobile generation and a portable substation included in the 5-year plan.”
4. At the same time it is expected that Newfoundland and Labrador Hydro (NLH) shall also be filing increasingly large capital budgets over the corresponding 5-year

period. In its 2009 Capital Plan filed with its August 11, 2008 Capital Budget

Application for 2009, NLH states at page 5:

“Hydro anticipates that its capital expenditures to maintain the existing system will rise to an average of \$54 million over the next five years and to an average of \$58 million, expressed in 2008 dollars, over the next 20 years. Expenditures for new generation and transmission assets are not included in these estimates”. (Emphasis added)

5. These present and anticipated capital spending projections coupled with the already high cost of fuel burned at Holyrood and in other smaller communities served by diesel generation, will pose ever more serious challenges to consumers who ultimately bear the entire cost of service. This speaks to the heightened need to ensure that capital expenditures of the utilities are supervised in order to balance the interests of consumers and the utilities in keeping with the provision of least cost reliable service. Central to this supervisory function of the Board, is the need to insist that the utility adequately make the case to support its capital spending proposals. It is in this light that the Consumer Advocate wishes to make the submissions which follow in relation to certain of the Company’s proposals.

**ROCKY POND HYDRO PLANT REFURBISHMENT**

6. The Board will recall that in Newfoundland Power's 2007 Capital Budget Application, the Board made the following Request for Information (see PUB 1.0 NP):

**"Generation-Hydro**

Rattling Brook Hydro Plan Refurbishment (Clustered) - \$18,242,000 - PUB 1.0 NP

In other projects where woodstave penstocks have been replaced, either within Newfoundland Power Inc. service territory or in other jurisdiction, have there been follow-up reports that provide an evaluation of the actual state of the penstock that has been replaced? If so, please provide these reports."

7. In response to that question, NP state as follows:

"There have not been any follow-up reports that provide an evaluation of the actual state of the penstocks that have been replaced within Newfoundland Power's service territory.

The Company is not aware of reports from other jurisdictions comparing the actual condition of demolished penstocks with the condition indicated by engineering inspections and assessments.”

8. In the current 2009 Capital Budget Application, the Company has stated in response to CA-NP-6 that Newfoundland Power did not undertake an follow-up report with respect to the Rattling Brook Penstock.
9. In the case of the Rocky Pond Woodstave Penstock which was constructed in 1942, obviously the structure has already had a long life of service. Nonetheless, it is always reasonable for the regulator and intervenors to ask whether such projects can reasonably be deferred until a later time. Such was the question posed by the Board itself in PUB-3.0 NP concerning the Rattling Brook Penstock project during the 2007 Capital Budget Application. Unfortunately, any relevant information which may have been brought to bear on this question and that would have arisen from a post-demolition assessment of the Rattling Brook penstock has been lost. In light of the fact that the Company has stated in its 2009 Capital Plan that it intends to bring forward other such penstock projects over the next five years, the

Consumer Advocate would recommend that the Board direct NP to provide a follow-up report on the Rocky Pond penstock.

**ROCKY POND - FOREBAY INTAKE INSTRUCTURE**

10. At page 4 of the Report of Trina Cormier, B.Eng. entitled "Rocky Pond Hydro Plant Refurbishment" referred to in to the Forebay Intake Structure. The report states:

"3.2 Forebay Intake Structure

The intake gate and gate guides are original to the 1942 construction and are in poor condition. Excessive flows currently by pass the gate when the plant is shut down and the penstock is dewatered. This prohibits safe access to the intake when the penstock is dewatered to perform regular inspection and maintenance on the intake. It is recommended that the intake gate and gate guides be replaced."

11. According to the reply to CA-NP-13, the Intake Rehabilitation project is budgeted for \$231,000.
12. The Consumer Advocate is unsure of the basis for the assertion that the intake gate and gate guides are "in poor condition". In reply to CA-NP-12, the Company provided Inspection Reports/Assessments that were completed for Rocky Pond for the years 2003 to 2008. It appears from the reports provided that an inspection of the Rocky Pond Dam, Spillway and Intake was completed on 08-17-07 (August 17, 2007) and the following was reported, inter alia:

Intake/Walkway

Good

Gate Operation	Good
Gatehouse	Good

13. It would appear that a further inspection of the Rocky Pond Dam, Spillway and Intake was completed on 10-04-07 (October 4, 2007) which reported the same findings as previous. The findings were likewise reported to be “Good” following on inspection which took place on April 28, 2008.
14. If, as it would appear, Ms. Cormier’s report at section 3.2 is intending to comment upon the same structures as have been evaluated in these recent inspections, the Consumer Advocate would question the basis for the assertion that these structures are “in poor condition” and would further question the need for their replacement at this time as has been proposed by the Company.



**FACILITY REHABILITATION - HORSECHOPS PROTECTION,  
CONTROL AND GOVERNOR REFURBISHMENT**

15. The Company has proposed spending \$947,000 in 2009 in relation the to Horsechops Protection, Control and Governor Refurbishment project.
16. It is interesting to note that upon reviewing the Facility Rehabilitation report pertaining to the Horsechops Protection, Control and Governor Refurbishment in 2009, the Board staff was prompted to ask the following question in PUB-NP-1:

“2. Are there reasons, other than the age of the plant, why Newfoundland Power has decided to undertake the Horsechops Protection, Control and Governor Refurbishment in 2009.”
17. Frankly, the question posed by Board staff also reflects the basic concern of the Consumer Advocate in relation to this project.
18. Though the Company states in its reply to PUB-NP-1 that the “decision to undertake the Horsechops Protection, Control and Governor Refurbishment in 2009 is based upon the deterioration of the equipment identified for replacement”, a review of the 2009 Facility Rehabilitation Report of June 2008 by Gary K. Humby, P.Eng. does not fully support this assertion except arguably in the case of the \$87,000 Generation Protection Component and the \$163,000 Switchgear component. In relation to the

\$87,000 Generation Protection component of the project reference is made to trouble related to age and environment conditions. Evidence has also been provided in relation to this component of the project that the existing protection system lacks five elements of the minimum protection set. In relation to the \$163,000 Switchgear component, evidence has been adduced in relation to a high arc flash hazard associated with this Switchgear in its present state.

19. In relation to the Horsechops Protection, Control and Governor Refurbishment project planned for 2009, the company has classified this project as Normal Capital (Identified Need) at page 4 of 81, Schedule "B".
20. Pursuant to the Board's Capital Budget Application Guidelines as revised in October of 2007 at page 6 of 11, the definition of Normal Capital is "A capital expenditure that is required based on identified need or on historical patterns of repair and replacement." As regards Supporting Information, the Guidelines state:

"In relation to normal capital expenditures, a utility must show, where appropriate:

1. There is evidence of the need, i.e. historical spending patterns, maintenance history, reliability data, growth;
2. All reasonable alternatives, including deferral, have been considered;

3. The expenditure as proposed is the least cost option;
  4. Unit and/or aggregate cost data including, where available, similar costs for the preceding five (5) years; and
  5. Net Present Value (NPV)."
21. It is for the Board to satisfy itself that in relation to the whole of this proposed project that the Company has met the evidentiary burden placed upon it. The Board should consider in its deliberations, the plant availability statistics for the Horsechops Generating Plant over the past 10 years which are produced in reply to CA-NP-22 and which tend to show a relatively high level of availability for the generating unit at Horsechops. Indeed from 2006 to August 12, 2008, the Availability was 95.54%, 98.73% and 98.77% respectively. It would appear that in certain recent years when the availability of the generating unit fell below these levels, that may have been attributable to the major work which has been completed at the facility in recent years including the installation of a steel surge tank, steel penstock and intake structure and new main inlet valve, being projects which are referred to at page 1 of the 2009 Facility Rehabilitation Report.

22. In relation to the \$127,000 Governor Control System component of the Horsechops project, NP states in reply to CA-NP-17 that “Newfoundland Power observes replacement of the Horsechops generator (sic) control system is required due to the deteriorated condition of the existing system, not obsolescence.” Beyond this assertion of a “deteriorated condition” given in this response there is no basis in the report of Gary K. Humby, P. Eng, to support this assertion. The Consumer Advocate is aware of the fact as reported by the Company at p. 2 of the Humby report that the gate shaft governor is 54 years old. It is also acknowledged that the Company in reply to CA-NP-18 has stated that the typical service life of governor control systems is in the range of 15 to 40 years, according to the US Army Corp of Engineers. Clearly, this asset has been well-maintained at a cost to customers. The issue that the Consumer Advocate has is that there is insufficient evidence on the record to support the contention of the Company that there are reasons, other than age and obsolescence, to support this project. Indeed, as stated, the Company has stated in reply to CA-NP-17 that obsolescence is not the reason it is citing for replacement of the governor control system.
23. To further illustrate, in relation to the \$442,000 Plant Control System component of the Horsechops project, the Consumer Advocate again, with respect, finds that the

case has not been made for the need for this expenditure at this time. Though the proposed Plant Control System, as described in the Humby report, appears to have advantages over the existing system, it has not been established that the Plant Control System is in a condition such that its replacement cannot be reasonably deferred.

**DATED** at St. John's, in the Province of Newfoundland and Labrador, this 24<sup>th</sup> day of September, 2008.

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**THE CONSUMER ADVOCATE**

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