

**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 its 2010 Capital Budget of \$64,679,000; and
- (b) fixing and determining its average rate base for 2008 in the amount of \$820,876,000.

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

**SEPTEMBER 30, 2009**

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1   **1.0   INTRODUCTION**

2   Newfoundland Power's 2010 Capital Budget was filed with the Board on June 19, 2009. The  
3   approximately \$64.7 million budget is larger than the 2009 capital budget, principally due to a  
4   requirement for increased power transformer capacity at the Company's substations at Deer Lake  
5   and Mobile. The total proposed expenditures for these two projects equates to the entire budget  
6   increase over 2009.

7  
8   The 2010 Capital Budget Application (the "Application") seeks an Order of the Board:  
9   (1) pursuant to Section 41(1) of the *Public Utilities Act*, approving proposed 2010 capital  
10   expenditures totalling \$64,679,000 and (2) pursuant to Section 78 of the *Public Utilities Act*,  
11   fixing and determining Newfoundland Power's average rate base for 2008 in the amount of  
12   \$820,876,000.

**2.0 OVERVIEW**

To provide context for the Board’s consideration of the Application, this submission will:

First, review the legislative framework under which the Application is brought;

Second, address specific compliance requirements;

Third, summarize the process engaged in by the Board and participants in the consideration of the Application;

Fourth, address specific matters raised in the Consumer Advocate’s Submission; and

Finally, 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 this Board "an annual capital budget of proposed improvements and additions to its property" for the Board's approval.

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

4  
5 The focus of this proceeding is whether Newfoundland Power's proposal for \$64.7 million in  
6 capital expenditures in 2010 is reasonably required for it to meet its statutory obligation to serve  
7 its approximately 240,000 customers.

8  
9 Newfoundland Power submits that its 2010 Capital Budget represents the capital expenditures  
10 necessary to maintain its electrical system and to continue to meet its statutory obligations under  
11 Section 37(1) of the *Public Utilities Act* and Section 3(b) of the *Electrical Power Control Act*,  
12 1994.

1     **4.0     COMPLIANCE MATTERS**

2     **4.1     Board Orders**

3     In Order No. P.U. 27 (2008) (the “2009 Capital Order”), the Board required specific information  
4     to be filed with the Application. The Application complies with the requirements of the 2009  
5     Capital Order.

6  
7     In Order No. P.U. 35 (2003) (the “2004 Capital Order”), the Board required specific information,  
8     and in particular a 5-year capital plan, to be provided with the Application. The Application  
9     complies with the requirements of the 2004 Capital Order.

10  
11    In Order No. P.U. 19 (2003) (the “2003 Rate Order”), the Board required that evidence relating  
12    to deferred charges and a reconciliation of average rate base to invested capital be filed with the  
13    Application. The Application complies with the requirements of the 2003 Rate Order.

14  
15    In Order No. P.U. 32 (2007) (the “2008 Rate Order”), the Board approved Newfoundland  
16    Power’s calculation of rate base in accordance with the Asset Rate Base Method. The  
17    Application complies with the requirements of the 2008 Rate Order.

18  
19    **4.2     The Capital Budget Application Guidelines**

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

- 1 Section 2 of the *2010 Capital Plan* provides a breakdown of the 2010 Capital Budget by
- 2 definition, classification, costing method and materiality segmentation as required in the CBA
- 3 Guidelines.



1    **5.0    PROCESS**

2    **5.1    *Proceedings of Record***

3    On July 21, 2009, the Consumer Advocate issued 46 RFIs to Newfoundland Power. On July 22,  
4    2009, the Board issued 25 RFIs to Newfoundland Power, for a combined total of 71 RFIs.  
5    Newfoundland Power responded to 51 RFIs on July 27, 2009, and to the remaining 20 RFIs on  
6    August 6, 2009.

7  
8    No intervenor evidence was filed in the proceeding, and no intervenor requested a technical  
9    conference or formal hearing of the Application.

10  
11   **5.2    *Consumer Advocate's Submission***

12   The Consumer Advocate filed written submissions in the proceeding on September 17, 2009.

13   The written submissions addressed (1) the justification for the Vehicle Mobile Computing  
14   Infrastructure project, and (2) the need for a template listing the factors that are to be considered  
15   in making an “end of useful life” determination for vehicle replacement.

16  
17   Following is Newfoundland Power's response to the Consumer Advocate's Submission.

**6.0 Response to Submission**

**6.1 Vehicle Mobile Computing Infrastructure**

The *Vehicle Mobile Computing Infrastructure* project for 2010 involves the installation of 35 ruggedized laptop computers in the vehicles of Company field staff at a cost of \$272,000.

Reference: Schedule B, page 91 of 96.

A similar project, involving the installation of 25 ruggedized laptops in Company vehicles at a cost of \$350,000, was approved by the Board as part of the Company's 2009 Capital Budget Application.

Reference: 2009 Capital Budget Application, Schedule B, page 76 of 81; Order No. P.U. 27 (2008).

In the 2009 Capital Budget Application, the Company projected 2010 capital expenditures of \$450,000 to complete the installation of mobile computing infrastructure in its vehicles over 2 years.

Reference: 2009 Capital Budget Application, Schedule B, page 76 of 81.

Newfoundland Power has adopted a measured approach to the deployment of its mobile computing platform. The schedule reflected in the 2009 Capital Budget Application has been extended. Installation of mobile computing infrastructure in the Company's vehicles is now projected to conclude in 2011. The 2010 proposed expenditures have been reduced to \$272,000, with the remaining expenditures of \$178,000 now projected for 2011.

Reference: Schedule B, page 91 of 96.

1 Evaluation of the functionality, ergonomics and overall effectiveness of equipment configuration  
2 alternatives is being carried out on six of the twenty-five units approved for installation in 2009.

3 Reference: CA-NP-35; PUB-NP-25.

4  
5 The Consumer Advocate submits that the Board has been provided with very little basis to adjudge  
6 the justifiability of this initiative in terms of its costs and benefits. The Consumer Advocate  
7 observes that an element of the Company's justification for the *Vehicle Mobile Computing*  
8 *Infrastructure* project is least cost continued compliance with safety and environmental standards  
9 and processes. The Consumer Advocate has characterized the Company's assessment of the  
10 benefits and costs of the project as being "in the nature of broad, conclusory statements which fall  
11 well short of the justification that should be demanded for a project of this nature."

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

13  
14 The benefits associated with mobile computing will be achieved as applications are deployed on the  
15 mobile computing infrastructure. Newfoundland Power's 2009 Capital Budget Application, as  
16 approved by the Board, included a \$168,000 item in the Application Enhancements project to make  
17 available to field employees the Company's Health and Safety Management System and  
18 Environmental Management System documentation.

19 Reference: 2009 Capital Budget Application, Schedule B, page 65 of 81; Order No.  
20 P.U. 27 (2008).

21  
22 Newfoundland Power employees who work in the field currently rely on paper copies of various  
23 manuals to reference safety, environment and other related work procedures. There have been  
24 instances where the paper copies of field manuals have not been updated in a timely manner.

1 Ensuring that employees have access to the most current policies and procedures related to safety  
2 and the environment can be done in a more cost-effective manner using mobile computers in  
3 Company vehicles when compared with creating, updating and distributing over 120 paper  
4 copies of this documentation. A financial analysis of the costs and benefits associated with  
5 making the Company's safety and environmental policies and procedures available to employees  
6 with mobile computers in their vehicles indicated a positive net present value of \$59,087 over 5  
7 years.

8 Reference: 2009 Capital Budget Application, *2009 Applications Enhancements*, page 7 - 8.

9  
10 The CBA Guidelines detail the evidentiary requirements for capital projects segmented by the  
11 materiality of the associated capital expenditures. For expenditures between \$200,000 and  
12 \$500,000, the utility is expected to provide net present value or cost benefit analysis where  
13 appropriate and when available.

14 Reference: Capital Budget Application Guidelines, October 2007, page 7 of 11.

15  
16 In relation to a Justifiable project, the utility is required to show that all reasonable alternatives  
17 have been considered.

18 Reference: Capital Budget Application Guidelines, October 2007, page 6 of 11.

19  
20 Installing mobile computing infrastructure in vehicles used by Newfoundland Power's field staff  
21 will provide the Company's Powerline Technicians with the ability to access the most current  
22 versions of safety and environmental policies, and to manuals containing other work documents  
23 and procedures. The only reasonable alternative for providing field staff with access to these  
24 resources is to complete the installation of mobile computers in their vehicles that commenced in

2009. In the circumstances, a detailed net present value calculation or cost benefit analysis is not required.

The introduction of mobile computing for Newfoundland Power's field personnel has further potential to improve efficiency in customer operations. The Company intends to assess this further potential in 2010.

Reference: PUB-NP-24.

Applications to be deployed in future on the Company's mobile computing infrastructure will undergo cost benefit analysis as appropriate, including net present value analysis of alternatives, in the same manner as the Safety and Environmental System Enhancements item approved by the Board as part of the 2009 Capital Budget Application.

It is submitted that the *Vehicle Mobile Computing Infrastructure* project meets the CBA Guidelines requirements for justification for the ongoing deployment of mobile computing infrastructure where there are no reasonable alternatives. Newfoundland Power submits that the *Vehicle Mobile Computing Infrastructure* project is justified, and should be approved by the Board.

## **6.2 Use of a Template in Vehicle Replacement Decisions**

Newfoundland Power's *2010 Purchase Vehicles and Aerial Devices* project proposes to replace 29 vehicles in 2010, consisting of 6 heavy fleet vehicles, 17 passenger vehicles and 6 off-road vehicles.

Reference: Schedule B, page 72 of 96.

1 The Consumer Advocate submits that, in determining whether a vehicle has reached the end of  
2 its useful life, it would be helpful if the unit could be assessed relative to a template listing the  
3 factors to be considered in making the determination. The Consumer Advocate submits that a  
4 template may help bring a further measure of objectiveness to the determination.

5 Reference: Consumer Advocate's Submission, page 7.

6  
7 All Company vehicles are inspected regularly in accordance with government regulations, and  
8 are maintained according to manufacturers' recommendations. These regular inspections and  
9 evaluations are typically conducted with regard to templates that identify technical criteria for  
10 the safe and effective operation of the vehicles. Information gathered through these regular  
11 inspections and evaluations ultimately forms the basis for the evaluation of the remaining service  
12 life of the vehicles.

13 Reference: PUB-NP-17.

14  
15 When individual vehicles reach either a threshold age or a threshold level of usage, a detailed  
16 evaluation is triggered to determine whether replacement of the vehicle is the least cost option.  
17 Heavy fleet vehicles are considered for replacement when they reach either 10 years of age, or  
18 250,000 kilometres travelled. For passenger vehicles, the evaluation thresholds are 5 years of  
19 age, or 150,000 kilometres travelled.

20 Reference: Schedule B, page 73 of 96.

21  
22 Once they have reached either of the evaluation thresholds, vehicles are evaluated based on their  
23 overall condition, their individual maintenance history and immediate repair requirements. The

1 evaluation also considers the specific operating conditions and patterns of usage to which the  
2 vehicle has been subjected over its life. This approach to vehicle replacement is consistent with  
3 current Canadian utility practice and enables least cost replacement of vehicles.

4 Reference: PUB-NP-17.

5  
6 Newfoundland Power frequently extends the useful service life of its vehicles materially beyond  
7 the threshold age or level of usage at which they are evaluated for replacement.

8 Reference: PUB-NP-17.

9  
10 In 2009, four heavy fleet vehicles and sixteen passenger vehicles that had reached either the  
11 threshold age or level of usage were not replaced.

12 Reference: 2009 Capital Budget Application, CA-NP-29.

13  
14 In 2010, one heavy fleet vehicle and thirty passenger vehicles that have reached either the  
15 threshold age or level of usage will remain in service.

16 Reference: CA-NP-21.

17  
18 The CBA Guidelines outline a process that allows for detailed examination of the basis of the  
19 Company's decision to replace any individual vehicle, including vehicles which have not  
20 reached the stated threshold age or level of service criteria for evaluation.

21  
22 There is no evidence on the record of this proceeding that the use of a template in the evaluation  
23 of whether a vehicle has reached the end of its useful life would enhance the decision-making  
24 process.

## 7.0 CONCLUSIONS

### 7.1 Capital Projects

#### 7.1.1 General

The projects presented in Newfoundland Power's 2010 Capital Budget Application are necessary to: respond to customer growth and changes in customer requirements; replace deteriorated, defective or obsolete equipment; address safety and environmental issues; and maintain or improve customer service levels and operational efficiency gains.

With the exception of the matters raised in the Consumer Advocate's Submission, which matters are addressed above, no specific challenge has been made to the numerous engineering judgments and assessments that form the basis of the capital expenditures proposed in Newfoundland Power's 2010 Capital Budget.

Newfoundland Power's proposed capital expenditures for 2010 are necessary to provide to customers service that is safe and adequate and just and reasonable, and they are consistent with the provision of least cost electrical service.

#### 7.1.2 Newfoundland Power's Capital Management Practices

To provide a broad context for the Board's consideration of the Application, Newfoundland Power's 2010 Capital Plan provides overviews of (i) the Company's capital management practice and how it is reflected in its annual capital budgets, (ii) the 2010 capital budget and (iii) the 5-year capital outlook through 2014.



1 The *2010 Capital Plan* contains an overview of the Company's capital management practices,  
2 with particular emphasis on the impact of customer growth, including increased utilization of  
3 transformer capacity. The impact of customer growth on system capacity requirements will  
4 increase planned expenditures through 2014.

5 Reference: *2010 Capital Plan*

6  
7 *7.1.3 Sound Engineering Judgment*

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

12  
13 To assist the Board in determining whether the engineering judgments reflected in the 2010  
14 Capital Budget are sound, it is submitted that there was no evidence before the Board in this  
15 proceeding that:

- 16 • contradicts the engineering judgments reflected in the capital projects presented in  
17 the 2010 Capital Budget;
- 18 • demonstrates reasonable alternatives that were not considered by Newfoundland  
19 Power; or
- 20 • demonstrates that not proceeding with a particular capital project represented is a  
21 preferable alternative.

1    **7.1.4    Submission**

2    Newfoundland Power submits that the 2010 Capital Budget contained in the Application  
3    represents the capital expenditures required to meet its statutory obligations, including the  
4    delivery of electrical power at the lowest possible cost consistent with reliable service. Pursuant  
5    to Section 41 of the *Public Utilities Act*, the 2010 Capital Budget should be approved in its  
6    entirety by the Board.

7  
8    **7.2        Rate Base**

9    **7.2.1    General**

10   Newfoundland Power has requested that the Board fix and determine the 2008 average rate base  
11   for the purpose of regulatory continuity and certainty, in the same manner as the Board has  
12   exercised this regulatory supervisory power since 1999.<sup>1</sup>

13  
14   Newfoundland Power's actual average rate base for 2008 is shown in Schedule D to the  
15   Application.

16  
17   **7.2.2    Submission**

18   Based upon the evidence before the Board and pursuant to section 78 of the *Public Utilities Act*,  
19   the Board should fix and determine Newfoundland Power's average rate base for 2008 at  
20   \$820,876,000.

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<sup>1</sup>    See Order No. P.U. 24 (2000-2001).

**RESPECTFULLY SUBMITTED** at St. John's, Newfoundland and Labrador, this 30<sup>th</sup> day of  
September, 2009.

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