

**IN THE MATTER OF** the Electrical  
Power Control Act, SNL 1994, Chapter E-  
5.1 (the “EPCA”) and the Public Utilities  
Act, RSNL 1990, Chapter P-47 (the “Act”)  
as amended, and their subordinate  
regulations;

**AND IN THE MATTER OF** a General  
Rate Application (the “Application”) by  
Newfoundland Power Inc. to establish  
customer electricity rates for 2010.

**Settlement Agreement  
for the Proposed Resolution of  
Certain Issues Arising from the Application**

**Whereas** Newfoundland Power Inc. (the “Applicant”) has applied to the Board of  
Commissioners of Public Utilities (the “Board”) to establish customer electricity rates for 2010;

**And Whereas** the Consumer Advocate and Newfoundland and Labrador Hydro have been  
granted Registered Intervenor status by the Board;

**And Whereas** the Applicant and the Consumer Advocate (the “Parties”), with participation by  
Board hearing counsel, have engaged in negotiations;

**And Whereas** the Parties have agreed to make joint recommendations to the Board for the  
resolution of certain issues arising out of the Application.

**Terms of Agreement**

1. The Parties jointly advise the Board that the issues arising from the Application set out below (the “Settled Issues”) have been settled by negotiation between them.
2. The Parties recommend that the Board implement the agreement of the Parties regarding the Settled Issues in its Order.
3. At the hearing of this Application the Parties do not intend to present evidence, examine, cross-examine or present argument in relation to the Settled Issues beyond that which is reasonably necessary to assist the Board’s understanding, and to explain or clarify the

Parties' agreement concerning the Settled Issues, except insofar as may be necessary to address issues that have not been settled by this Agreement.

4. This Settlement Agreement does not dispose of all issues arising from the Application. It does not limit the rights of the Parties to present evidence, examine, cross-examine and present argument at the hearing of this Application on issues that have not been settled by this Agreement.
5. This Agreement is without prejudice to the positions the Parties may take in proceedings other than this Application. It sets no precedent for any issue addressed in this Agreement in any future proceeding or forum.

### **Matters Agreed Upon**

6. The Parties have agreed upon the resolution of the following issues:
  - a. 2010 customer energy and demand forecast
  - b. Amortization of 2009 conservation costs
  - c. Continued use of the Energy Supply Cost Variance Clause and the Demand Management Incentive Account
  - d. Creation of a Pension Expense Variance Deferral Account
  - e. Timing of the next depreciation study
  - f. Capital structure for rate-making purposes
  - g. Schedule for the Retail Rate Review

### **2010 Customer, Energy and Demand Forecast**

7. The Applicant has provided a 2010 Customer, Energy and Demand Forecast dated May 2009 with its Application.
8. The Applicant is preparing a revised Customer, Energy and Demand Forecast for filing with the Board.
9. The Parties agree that the Board may accept and rely upon the revised Forecast.

**2009 Conservation Costs**

10. The Applicant has forecast 2009 conservation costs associated with programming under the 5-year Energy Conservation Plan to be approximately \$1.5 million.
11. The Applicant's 2009 conservation costs will be charged to the Conservation Cost Deferral Account.
12. The Applicant has applied to amortize those costs over the remaining four years of the 5-year Energy Conservation Plan beginning January 1, 2010.
13. The Parties agree that this proposal should be approved.

**Energy Supply Cost Variance Clause and Demand Management Incentive Account**

14. In Order No. P.U. 32 (2007) the Board approved the recovery through the Rate Stabilization Account of the Energy Supply Cost Variance incurred through to the end of 2010.
15. With the Application the Applicant has provided a report on the operation of the Energy Supply Cost Variance for 2008 and a forecast for 2009.
16. The Parties have agreed that the Board should approve the continued use of the Energy Supply Cost Variance clause until further Order of the Board.
17. In Order No. P.U. 32 (2007) the Board also approved the establishment of the Demand Management Incentive Account.
18. With the Application the Applicant has provided a report on the performance of the Demand Management Incentive Account.
19. The Parties have agreed that, for this Application, no changes should be made to the Demand Management Incentive Account.
20. The Applicant will provide a report to the Board on the performance of the Demand Management Incentive Account with its next General Rate Application. The content of the report will include a summary of the amounts of transfers and savings and an examination of the incentive effects of:
  - a. the Demand Management Incentive Account,
  - b. other existing regulatory mechanisms related to power purchase costs, and

- c. possible alternative mechanisms with respect to the effectiveness and efficiency of the incentive to reduce power purchase costs.

### **Pension Expense Variance Deferral Account**

- 21. The Applicant has proposed the creation of a Pension Expense Variance Deferral Account to account for the difference between the annual pension expense computed in accordance with generally accepted accounting principles for any year and the annual pension expense approved most recently for the establishment of revenue requirement from rates for a test year.
- 22. The Parties agree with the creation of the Pension Expense Variance Deferral Account.
- 23. The Parties agree that the Pension Expense Variance Deferral Account will be defined as follows:

#### *Pension Expense Variance Deferral Account*

This account shall be charged or credited with the amount by which the annual pension expense computed in accordance with generally accepted accounting principles for any year differs from the annual pension expense approved most recently for the establishment of revenue requirement from rates for a test year.

#### *Disposition of any Balance in this Account*

Newfoundland Power shall charge or credit any amount in this account to the Rate Stabilization Account as of the 31<sup>st</sup> day of March in the year in which the difference arises.

If there is an application before the Board for rates based on a new test year that is anticipated to be outstanding as of the 31<sup>st</sup> day of March in a year in which the new rates are expected to become effective, then Newfoundland Power shall apply to the Board for determination of the amount to be charged or credited to the account for that year and the timing thereof.

- 24. The Parties agree that the Board should approve that the Pension Expense Variance Deferral Account be implemented effective January 1, 2010.

### **Depreciation Study**

- 25. In Order No. P.U. 32 (2007) the Board ordered that Newfoundland Power file its next depreciation study relating to plant in service as of December 31, 2010.

26. The Parties agree that the Board should approve that Newfoundland Power file its next Depreciation Study relating to plant in service as of December 31, 2009.

### **Capital Structure**

27. The Parties agree that the proposed capital structure presented in the Application should be used for rate making purposes for this Application.

### **Retail Rate Design Study**

28. The Parties agree that appropriate adjustments will be made to the schedule for the retail rate design study for delays arising from this General Rate Application.

### **Remaining Issues**

29. The revised issues list filed by the Applicant on the 22<sup>nd</sup> day of September 2009 lists the matters identified by the Applicant that should be addressed in the Order of the Board. Some of those issues have been resolved, as between the Parties, by this Agreement.


They are:

- a. Item 3 – the 2010 Customer, Energy and Demand Forecast;
- b. Item 4(a) – the amortization of the 2009 conservation costs;
- c. Item 5(a) – the continued use of the Energy Supply Cost Variance Clause;
- d. Item 5(b) – the continued use of the Demand Management Incentive Account;
- e. Item 6 – approval of the Pension Expense Variance Deferral Account;
- f. Item 7 – the next depreciation study; and
- g. Item 9 – the Applicant's capital structure.

30. The revised Consumer Advocate's Issues List filed contemporaneously with this Agreement is a statement of the issues that the Consumer Advocate currently intends to address at the hearing of this Application.

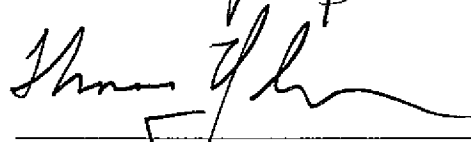
**Agreed** to effective the 23<sup>rd</sup> day of September, 2009.

For Newfoundland Power:



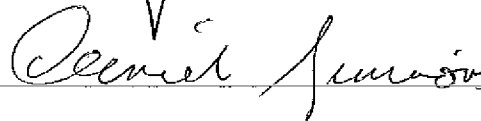
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For the Consumer Advocate:



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For the Board's hearing counsel:



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