

HAND DELIVERED

October 14, 2010

Board of Commissioners
of Public Utilities
P.O. Box 21040
120 Torbay Road
St. John's, NL A1A 5B2

Attention: Ms. Cheryl Blundon
Board Secretary

Ladies & Gentlemen:

Re: Newfoundland Power's 2011 Capital Budget Application

Enclosed are the original and 10 copies of Newfoundland Power's Brief of Argument.

For convenience, the Argument is provided on three-hole punched paper.

A copy of this letter, together with enclosures, has been forwarded directly to Geoffrey Young, of Newfoundland & Labrador Hydro and Mr. Thomas J. Johnson, the Consumer Advocate.

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

Yours very truly,



Gerard M. Hayes
Senior Counsel

Enclosures

c. Geoffrey Young
Newfoundland & Labrador Hydro

Thomas Johnson
O'Dea Earle Law Offices



Join us in the fight against cancer.

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 2011 Capital Budget of \$72,969,000; and
- (b) fixing and determining its average rate base for 2009 in the amount of \$848,493,000.

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

OCTOBER 14, 2010

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1 **1.0 INTRODUCTION**

2 Newfoundland Power's 2011 Capital Budget was filed with the Board on July 15, 2010. The
3 approximately \$73.0 million budget is larger than the 2010 capital budget, principally due to the
4 increased expenditures required to service customer growth, a project to replace structures in the
5 Rattling Brook hydro plant system and changes in PCB regulations.

6
7 The 2011 Capital Budget Application (the "Application") seeks an Order of the Board:

8 (1) pursuant to Section 41(1) of the *Public Utilities Act*, approving proposed 2011 capital
9 expenditures totalling \$72,969,000 and (2) pursuant to Section 78 of the *Public Utilities Act*,
10 fixing and determining Newfoundland Power's average rate base for 2009 in the amount of
11 \$848,493,000.

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 \$73.0 million in
6 capital expenditures in 2011 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 2011 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. 41 (2009) (the “2010 Capital Order”), the Board required specific information
4 to be filed with the Application. The Application complies with the requirements of the 2010
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,

1 the Application, in Newfoundland Power's view, complies with the CBA Guidelines while
2 remaining reasonably consistent and comparable with past filings.
3
4 Section 2 of the *2011 Capital Plan* provides a breakdown of the 2011 Capital Budget by
5 definition, classification, costing method and materiality segmentation as required in the CBA
6 Guidelines.

1 **5.0 PROCESS**

2 **5.1 *Proceedings of Record***

3 On August 12, 2010, the Consumer Advocate issued 40 RFIs to Newfoundland Power. No RFIs
4 were issued by the Board for the Application. Newfoundland Power responded to the 40 RFIs
5 on August 26, 2010.

6
7 No intervenor evidence was filed in the proceeding, and no intervenor requested a technical
8 conference or formal hearing of the Application.

9
10 **5.2 *Consumer Advocate's Submission***

11 The Consumer Advocate filed written submissions in the proceeding on October 7, 2010. The
12 written submissions addressed the justification for (1) the Vehicle Mobile Computing
13 Infrastructure project, (2) the Application Enhancements project and (3) the Replacement of
14 Rattling Lake Spillway included with the Rattling Lake Dam Refurbishment project. The
15 Consumer Advocate also makes some general recommendations with respect to the annual
16 capital budget filing requirements of the Company.

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

1 **6.0 RESPONSE TO SUBMISSION**

2 **6.1 General Recommendations**

3 The Consumer Advocate's submission includes several general observations regarding the
4 relationship between the utility's obligation to provide least-cost service to customers and the
5 capital budgeting process. The Consumer Advocate observed that the overall level of capital
6 expenditures is expected to increase in future years, as set out in the 2011 Capital Plan.

7 Reference: Consumer Advocate's Submission, pages 2 - 3.

8
9 The Consumer Advocate submits that, in the context of the expected increases in future capital
10 expenditure requirements, there is a need for concern regarding the overall level of capital
11 expenditures proposed in the Company's Capital Budget Applications. The Consumer Advocate
12 further submits that, in the absence of sufficient independent technical expertise to provide
13 detailed scrutiny of individual capital project proposals, the Board should be "appropriately
14 critical" of claims by utilities that a certain project cannot reasonably be deferred.

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

16
17 Citing the examples of the deferred replacement of the Rattling Lake spillway and the
18 postponement of a refurbishment of the Victoria Hydro Plant beyond the date contemplated in
19 the 2010 Capital Plan, the Consumer Advocate submits that, in spite of utility submissions that a
20 certain project cannot reasonably be deferred, such projects are routinely delayed or put off. In
21 that regard, the Consumer Advocate observes there is an element of subjectivity in determining
22 whether a project can be deferred, and that the cited examples illustrate the implausibility of
23 claims that no projects proposed in a capital budget application can be prudently deferred.

1 Reference: Consumer Advocate's Submission, pages 5 - 6.

2
3 On the basis of the foregoing observations, the Consumer Advocate recommends that a capital
4 budget application should:

5 (a) Provide guidance to the Board and interested parties as regards the ranking of the
6 importance of the projects being proposed in the Application; and

7 (b) Where applicable to the type of project in question, explain specifically what deferral
8 alternatives have been considered and why deferral for any period of time was found not
9 to be a prudent option in the circumstances.

10 Reference: Consumer Advocate's Submission, pages 6 - 8.

11
12 As regards the ranking of projects, the Consumer Advocate cites the policy statement contained
13 in Part III of the CBA Guidelines,¹ and submits that if the Board was provided with the utility's
14 assessment of the relative importance of the proposed projects, the Board and intervenors would
15 be better placed to ensure that the interests of consumers and the utility were appropriately
16 balanced. The Consumer Advocate submits that the ranking of projects would add transparency
17 to the capital budget process and complement the purpose of the CBA Guidelines.

18 Reference: Consumer Advocate's Submission, pages 8 - 9.

¹ "In fulfilling its mandate with respect to the supervision of the capital expenditures of a utility the Board balances the interests of consumers and the utility in the context of the applicable legislative provisions. In balancing these interests the Board is committed to the efficient and effective review and approval of expenditures in keeping with the provision of least cost reliable service." [CBA Guidelines, October 2007, Part III, Policy Statement.]

1 Newfoundland Power submits that all projects in the 2011 Capital Budget Application are
2 required to be completed in 2011 and cannot prudently be deferred. Changes in forecast capital
3 expenditures are inevitable, as are modifications to project schedules contemplated in five-year
4 capital plans.

5
6 The Consumer Advocate has identified the Rattling Brook Spillway and the Victoria Hydro Plant
7 projects as two projects that did not proceed on the schedules initially indicated in previous
8 Capital Plans. Decisions with respect to the scheduling of these two projects were made by the
9 Company's professional engineers as part of the annual capital budgeting process for the years in
10 question. Projects that are included in the capital budget are those which, in the judgment of the
11 Company's professional engineering staff, must proceed as proposed.

12
13 The Consumer Advocate's submissions do not provide criteria for the ranking of the relative
14 importance of capital projects, nor do they indicate how such a ranking should be used by the
15 Board in deciding whether a particular capital project is justified.

16 Reference: Consumer Advocate's Submission.

17
18 The Company submits that there is no evidence in the record of this proceeding that is supportive
19 of the Consumer Advocate's recommendation regarding the ranking of capital projects.

20
21 In Newfoundland Power's submission, the Board's existing capital budget review process, as set
22 out in the CBA Guidelines, fulfills its stated purpose of providing clarity and consistency in the
23 submission of capital expenditures by a utility, while ensuring transparent and fair oversight by

1 the Board. As noted in the Policy Statement set out in the CBA Guidelines, it is the Board's
2 mandate with respect to the supervision of the capital expenditures of a utility to balance the
3 interests of consumers and the utility in the context of the applicable legislative provisions.

4 Reference: CBA Guidelines, October 2007, page 2 of 11, Parts III
5 and IV.

6
7 The CBA Guidelines were developed in a review process conducted under the supervision of the
8 Board between 2005 and 2007. The process involved detailed consultation among Board staff,
9 Newfoundland Power, Newfoundland and Labrador Hydro, counsel for the Industrial Customers
10 and the Consumer Advocate.

11 Reference: Correspondence from Board Counsel, October 29, 2007.

12
13 The CBA Guidelines were developed in the context of a statement from the Board regarding the
14 desirability of "more stable and predictable year over year capital budgets for Newfoundland
15 Power which, in the Board's view, will assist in fostering stable and predictable rates for
16 consumers into the future." At the same time, the Board also directed Newfoundland Power to
17 file a detailed 5-year capital plan with its next capital budget filing. This is now an integral part
18 of the Company's annual capital budget filings.²

19 Reference: Order No. P. U. 36 (2002-2003).

² In Order No. P.U. 36 (2002-2003), the Board directed Newfoundland Power to provide to the Board a plan for maintaining the stability of the capital budget and the capital works program over the ensuing five (5) year period, including an analysis of capital expenditures, both budgeted and actual, over the previous 10 years, an indication of the pattern of expenditures for each budgetary category and for the overall budget, along with a full explanation of the reasons for changes in expenditure patterns.

1 As noted in the 2011 Capital Plan, the nature of the utility's obligation to serve will not, in some
2 circumstances, necessarily facilitate such stability. The 2011 Capital Plan outlines the potential
3 impact of such factors as customer growth, the age of Company infrastructure, changes in
4 government regulations and unforeseen major storms or weather events on the stability of capital
5 expenditures.

6 Reference: 2011 Capital Plan, pages 19 - 20.

7
8 Newfoundland Power has prepared and filed Capital Plans with the Board as part of its Capital
9 Budget Applications since 2003. The most recent Capital Plan is the typical starting point for
10 development of the Company's next annual capital budget. Practically, capital budgeting aims to
11 maintain stability in the Company's annual capital budgets and respond to the factors which
12 affect the level of required capital expenditure in any year. These factors will include diverse
13 matters such as observed asset condition, construction inflation, and evolving customer
14 requirements. The annual capital budget for the succeeding year is typically developed over a
15 period of months. During this period, forecast capital requirements for the ensuing year are
16 reviewed and assessed in light of the most recent information available. This information would
17 include asset performance and condition assessments; engineering reviews; and forecasts of
18 additional customers and customer electricity requirements. The manner in which
19 Newfoundland Power's annual capital budgets are developed is consultative, based upon the
20 most recent data available, and responsive to those factors which can be reasonably expected to
21 affect capital expenditures. Annual capital budgets are developed in the context of broader
22 Capital Plans which are aimed at maintaining year to year capital expenditure stability.

23 Reference: CA-NP-40, Newfoundland Power 2010 Capital Budget Application.

As regards the Consumer Advocate's implied suggestion that capital projects should be deferred if at all possible, Newfoundland Power has previously observed that deferral of necessary capital expenditures can contribute to year to year capital expenditure *instability*. Furthermore, there are risks inherent in overestimating the length of time a project can be deferred.³

Reference: CA-NP-38, Newfoundland Power 2010 Capital Budget Application.

It is Newfoundland Power's submission that the Application complies with the CBA Guidelines, and there is no evidentiary basis in this proceeding for consideration of the Consumer Advocate's general recommendations regarding changes to annual capital budget filing requirements.

6.2 Vehicle Mobile Computing Infrastructure

The Vehicle Mobile Computing Infrastructure project includes 2011 capital expenditures of \$178,000 to complete the final year of a 3-year project to install mobile computing infrastructure in Newfoundland Power vehicles.

Reference: 2011 Capital Budget Application, Schedule B, page 95 of 100.

The installation of 25 ruggedized laptops in Company vehicles in 2009 at an estimated cost of \$350,000, and 35 ruggedized laptops in Company vehicles in 2010 at an estimated cost of \$272,000, were approved by the Board as part of the Company's 2009 and 2010 Capital Budget Applications, respectively.

³ Newfoundland Power's 2005 Capital Budget Application included an \$81,000 capital project to replace the switchgear breaker at Rocky Pond plant because the arc extinguishing mechanism had deteriorated. On July 15, 2005, approximately 1 week before the scheduled replacement of the breaker, a fault developed on the generator, and a failure of the arc extinguishing mechanism resulted in a fire that caused \$1.5 million in damage to the plant and a 9 month outage. See CA-NP-20, Newfoundland Power 2009 Capital Budget Application.

1 Reference: 2009 Capital Budget Application, Schedule B, page 76 of 81; Order No.
2 P. U. 27 (2008). 2010 Capital Budget Application, Schedule B, page 91 of 96;
3 Order No. P. U. 41 (2009).

4
5 Newfoundland Power has approximately 80 line or maintenance crews. By the end of 2010,
6 ruggedized laptops will have been installed in 60 Company vehicles. In order to complete the
7 deployment of mobile computers across the Company's entire service territory, the remaining 20
8 units are proposed to be installed in 2011. As the deployment of vehicle mobile computing
9 infrastructure proceeds, the opportunities to improve efficiency and customer service will become
10 more achievable.

11 Reference: Schedule B, page 95 of 100; *5.4 Vehicle Mobile Computing*, page 1.

12
13 The Consumer Advocate's submission expresses a concern that the opportunities for reduced cost
14 associated with Vehicle Mobile Computing "are still only potential at present." The Consumer
15 Advocate suggests that the prudent course is to learn from the existing deployments of the
16 technology and to quantify what benefits will enure to the advantage of customers before
17 completing the deployment of the remaining 20 units.

18 Reference: Consumer Advocate's Submission, page 11.

19
20 In Order No. P.U. 41 (2009) approving the Company's 2010 Capital Budget, the Board indicated
21 that it expected Newfoundland Power to document the opportunity for improvements in safety
22 and efficiency associated with its investment in vehicle mobile computing infrastructure.

23 Reference: Order No. P. U. 41 (2009), page 7, lines 23 to 25.

1 In compliance with Order No. P. U. 41 (2009), Newfoundland Power filed a report titled *Vehicle*
2 *Mobile Computing* in this proceeding. The report provides information regarding the
3 opportunities for improvements in safety and efficiency associated with mobile computing,
4 including practical examples of improvements that have either already been implemented or will
5 be implemented in the near term.

6 Reference: 5.4 *Vehicle Mobile Computing*.

7
8 The investment in vehicle mobile computing infrastructure is the foundation upon which greater
9 efficiency in electrical line maintenance and operations can be pursued. The benefits associated
10 with mobile computing will be achieved as applications that target specific opportunities for
11 productivity improvement are deployed on the mobile computing infrastructure. Some of these
12 opportunities will relate to the replacement of manual paper-based processes with automated
13 electronic processes. Others will relate to more effective scheduling and execution of routine
14 electrical system work.

15 Reference: 5.4 *Vehicle Mobile Computing*, page 2.

16
17 The first application proposed to avail of the Vehicle Mobile Computing Infrastructure was a
18 \$168,000 item in the 2009 Application Enhancements project. This application makes the
19 Company's Health and Safety Management System and Environmental Management System
20 documentation available in electronic form in the vehicles of field employees, replacing an
21 inefficient and ineffective paper-based process. When fully implemented across the Company's
22 entire service territory, this application will ensure compliance and ongoing adherence of safety and
23 environmental standards in use by Newfoundland Power in a more reliable and cost-effective
24 manner than the existing paper manuals.

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

3
4 A practical example of greater efficiency through more effective scheduling is the Work
5 Dispatch Improvements item included in the 2011 Application Enhancements project.

6 Reference: *5.1 Application Enhancements*, page 5.

7
8 The Work Dispatch application will provide an automated process for dispatching electronic
9 work orders to field staff, and will allow them to retrieve, update and complete these work orders
10 while in the field. These work dispatch improvements will streamline operations and increase
11 the efficiency of work order assignments by eliminating most paper-based dispatching.

12 Reference: *5.4 Vehicle Mobile Computing*, page 2.

13
14 Over the period 2009 through 2011, the two applications which utilize the vehicle mobile
15 computing infrastructure have a combined positive net present value of approximately \$86,000
16 over 5 years; approximately \$543,000 over 10 years; and approximately \$1 million over 20
17 years. Given the Company's overall experience, a life expectancy of approximately 10 years for
18 these applications is reasonable.

19 Reference: *5.4 Vehicle Mobile Computing*, page 5.

20
21 Applications to be deployed in future on the Company's mobile computing infrastructure will
22 undergo cost benefit analysis as appropriate, including net present value analysis of alternatives, in
23 the same manner as the Safety and Environmental System Enhancements item approved by the

1 Board as part of the 2009 Capital Budget Application, and the Work Dispatch Improvements item
2 proposed in the Application.

3 Reference: *5.1 Application Enhancements*, page 5.

4
5 In relation to a Justifiable project, the utility is required to show that all reasonable alternatives have
6 been considered.

7 Reference: CBA Guidelines, October 2007, page 6 of 11.

8
9 The difficulty with the Consumer Advocate's suggestion that the installation of mobile computing
10 units in the remaining 20 vehicles be deferred until the benefits are quantified is that Newfoundland
11 Power will be practically required, in the interim, to maintain the existing paper-based processes in
12 addition to the mobile computer-based processes. Not only will this delay the realization of the
13 benefits of mobile computing, but it will add undue complexity to operations. Further, there is no
14 evidence that the Consumer Advocate's suggested approach will in any way assist in the
15 quantification of benefits. Accordingly, the only reasonable alternative for maximizing the
16 opportunities to improve efficiency and customer service associated with vehicle mobile computing
17 infrastructure is to complete the installation in the remaining 20 vehicles.

18
19 It is submitted that the *Vehicle Mobile Computing Infrastructure* project meets the CBA Guidelines
20 requirements for justification for the ongoing deployment of mobile computing infrastructure where
21 there are no reasonable alternatives.

1 Newfoundland Power submits that the *Vehicle Mobile Computing Infrastructure* project is justified,
2 and should be approved by the Board.

4 **6.3 Application Enhancements**

5 The Application Enhancements project included in the 2011 Capital Budget includes items
6 necessary to enhance the functionality of the Company's software applications. These
7 applications are used to support all aspects of business operations including provision of service
8 to customers, ensuring the reliability of the electrical system and compliance with regulatory and
9 financial reporting requirements.

11 The proposed application enhancements include Meter Reading Improvements, Electrical
12 Engineering Software enhancements, Work Dispatch Improvements, Customer Service Internet
13 and Energy Conservation Website enhancements. Some of the proposed enhancements are
14 justified on the basis of improving customer service. Some will result in increased operational
15 efficiencies. Some will have a positive impact on both customer service and operational
16 efficiency.

17 Reference: Schedule B, page 84 of 100; *5.1 Application Enhancements*, page 1.

19 Enhancing the Company's software applications either through vendor supplied functionality or
20 internal software development enables the Company to meet its obligation to provide service to
21 its customers at least cost.

22 Reference: *5.1 Application Enhancements*, page 1.

1 For example, the Company continues to make modest enhancements to CSS where investments
2 can be justified through projects such as the *Application Enhancements* project. These modest
3 enhancements to CSS will continue to extend the life of the system as it enters its twentieth year
4 of service in 2011.

5 Reference: *2011 Capital Plan*.

6
7 The Consumer Advocate submits that, in the absence of an overall plan or approach to these
8 application enhancements, it is difficult to get a sense of how annual capital expenditure
9 proposals fit into an overall picture.

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

11
12 The Company does not have an overall *plan* with respect to the goals it is intending to reach in
13 relation to application enhancements and a timeline and budget for their attainment. Software
14 enhancements are included in annual capital budgets when they are deemed justifiable.

15 Application enhancements included in annual capital budget applications are justified either
16 through a quantitative analysis of estimated costs and productivity benefits, or anticipated
17 improvements in the Company's ability to respond to evolving customer expectations. It is not
18 clear from the Consumer Advocate's submission how the development of such an overall plan
19 would contribute to the Board's consideration of justifiable application enhancements.

20 Reference: CA-NP-8; Consumer Advocate's Submission.

21
22 Newfoundland Power does have an overall *approach* to application enhancements. As with all
23 of its Information Systems investments, the Company assesses the merits of possible application

1 enhancements in response to changing business requirements, customer expectations and
2 information technology advancements. It has been the Company's experience that continuous
3 improvement is effectively achieved through this assessment process. In recent years, the
4 numbers of customers served by Newfoundland Power, as well as the Company's energy sales,
5 have grown by approximately 1.5% annually. Considering customer growth and inflationary
6 cost pressures, the productivity gains enabled by application enhancements have been a key
7 factor in maintaining stability of Newfoundland Power's costs and customer rates.

8 Reference: CA-NP-8.

9
10 As for the overall *picture*, Information Systems capital expenditures are expected to remain
11 relatively stable at an average of approximately \$3.8 million annually from 2011 through 2015.

12 Reference: 2011 Capital Plan, page 18.

13
14 From 2001 to 2005, Information Systems annual capital expenditures averaged approximately
15 \$4.5 million.

16 Reference: Annual Reports to the Board for 2001 through 2005, Return 4A.

17
18 The CBA Guidelines state that, in relation to Justifiable expenditures, a utility must show all
19 reasonable alternatives, including deferral, have been considered.

20 Reference: CBA Guidelines, October 2007, page 6 of 11.

21
22 The Consumer Advocate submits that the Application Enhancements project does not meet that
23 requirement.

Reference: Consumer Advocate's Submission, page 13 and 14.

There is no evidence in the record of this proceeding that there are reasonable alternatives to the proposed application enhancements that have not been considered by Newfoundland Power.

Each of the proposed items is justified as described in the Application, based upon improvements in customer service, improved efficiency, or a positive net present value analysis. In light of the anticipated benefits, deferral is not considered to be a reasonable alternative.

Reference: *5.1 Application Enhancements*.

Newfoundland Power submits that the *Application Enhancements* project is justified, and should be approved by the Board.

6.4 Rattling Brook Dam Refurbishment

The *Rattling Brook Dam Refurbishment* project involves the replacement of Rattling Lake Spillway, upgrades to Amy's Lake dam and Amy's Lake freeboard dam, and upgrades to Rattling Lake dam.

Reference: Schedule B, page 6 of 100.

Rattling Lake Spillway was initially recommended for replacement in 2008, following completion of the major refurbishment of the Rattling Brook Hydro Plant in 2007. Due to uncertainty regarding Department of Fisheries and Oceans ("DFO") requirements for fish passage at Rattling Brook, the replacement of Rattling Lake Spillway was temporarily deferred.

1 It has since been determined that fish passage utilizing the spillway will not be required, and
2 replacement of the spillway is proposed for 2011.

3 Reference: *1.3 Rattling Brook Dam Refurbishment*, page 1.

4
5 The Consumer Advocate submits that there is no evidence why it is not possible to continue to
6 defer the proposed replacement of Rattling Lake Spillway “for a year, or two or more years.”

7 Reference: Consumer Advocate’s Submission, page 14.

8
9 Rattling Lake Spillway is the main spillway in the Rattling Brook hydroelectric development. It
10 is a high consequence structure according to the Canadian Dam Association (“CDA”)
11 classification system. With the exception of the replacement of deteriorated stoplogs and other
12 minor upgrades, the spillway, which was commissioned in 1958, is in original condition.

13 Reference: *1.3 Rattling Brook Dam Refurbishment*, page 3.

14
15 An engineering assessment of the structural integrity of the spillway, carried out in 2005,
16 determined that the structure did not satisfy industry standard performance criteria for stability.
17 Further, the assessment concluded the manual stoplog removal process presented a hazard to
18 workers and a threat to dam safety under certain conditions.

19 Reference: *Rattling Lake Spillway Assessment*, Volume II, Appendix D, Newfoundland
20 Power 2007 Capital Budget Application.

21
22 Although the Company has been able to temporarily defer replacement of the spillway, this has
23 required significant changes in the operation of the facility.

1 To avoid worst-case structural loading on the spillway during winter conditions, it has been
2 necessary to limit the reservoir elevation to more than 2.5 metres below full supply level to avoid
3 ice rafting against the structure.

4 Reference: CA-NP-13; *1.3 Rattling Brook Dam Refurbishment*, Appendix A, page 5.

6 Further, because the spillway design flood cannot be safely passed with stoplogs in place, it has
7 been necessary to remove the stoplogs from the structure whenever excessive spill events are
8 anticipated. Operating the structure in this manner is inefficient, resulting in the loss of water
9 that could be utilized for energy production at the Rattling Brook Hydro Plant.

10 Reference: *Rattling Lake Spillway Assessment*, Volume II, Appendix D, Attachment B,
11 page 1 Newfoundland Power 2007 Capital Budget Application.
12

13 By limiting the normal operation of the Rattling Lake Spillway, Newfoundland Power has been
14 able to temporarily defer its replacement, which was initially recommended to take place in
15 2008. The replacement of Rattling Lake Spillway in 2011 is justified as set forth in the
16 Application and the evidence. There is no evidence in the record of this proceeding that it is
17 reasonable to continue to operate the Rattling Lake Spillway in an inefficient manner for the sole
18 purpose of further deferring its replacement.

19 Reference: *1.3 Rattling Brook Dam Refurbishment*, page 8.
20

21 Newfoundland Power submits that the *Rattling Brook Dam Refurbishment* project is justified, and
22 should be approved by the Board.

7.0 CONCLUSIONS

7.1 Capital Projects

7.1.1 General

The projects presented in Newfoundland Power's 2011 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 2011 Capital Budget.

Newfoundland Power's proposed capital expenditures for 2011 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 2011 Capital Plan provides overviews of (i) the Company's capital management practice and how it is reflected in its annual capital budgets, (ii) the 2011 capital budget and (iii) the 5-year capital outlook through 2015.

The 2011 Capital Plan contains an overview of the Company's capital management practices, with particular emphasis on the impact of customer growth, including increased utilization of transformer capacity. The impact of customer growth on system capacity requirements will increase planned expenditures through 2015.

Reference: 2011 Capital Plan.

Compliance with federal regulation governing a number of aspects of Newfoundland Power's operations has influence on the 2011 Capital Plan. This includes regulation of PCBs, fisheries, and, likely, electricity metering.

Reference: 2011 Capital Plan.

7.1.3 Sound Engineering Judgment

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

To assist the Board in determining whether the engineering judgments reflected in the 2011 Capital Budget are sound, it is submitted that there was no evidence before the Board in this proceeding that:

- contradicts the engineering judgments reflected in the capital projects presented in the 2011 Capital Budget;
- demonstrates reasonable alternatives that were not considered by Newfoundland Power; or

- demonstrates that not proceeding with a particular capital project represented is a preferable alternative.

7.1.4 Submission

Newfoundland Power submits that the 2011 Capital Budget contained in the Application represents the capital expenditures required to meet its statutory obligations, including the delivery of electrical power at the lowest possible cost consistent with reliable service. Pursuant to Section 41 of the *Public Utilities Act*, the 2011 Capital Budget should be approved in its entirety by the Board.

7.2 Rate Base

7.2.1 General

Newfoundland Power has requested that the Board fix and determine the 2009 average rate base for the purpose of regulatory continuity and certainty, in the same manner as the Board has exercised this regulatory supervisory power since 1999.⁴

Newfoundland Power's actual average rate base for 2009 is shown in Schedule D to the Application.

7.2.2 Submission

Based upon the evidence before the Board and pursuant to section 78 of the *Public Utilities Act*, the Board should fix and determine Newfoundland Power's average rate base for 2009 at \$848,493,000.

⁴ See Order No. P.U. 24 (2000-2001).

RESPECTFULLY SUBMITTED at St. John's, Newfoundland and Labrador, this 14th day of
October, 2010.



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