

Office of the Consumer Advocate

PO Box 23135
Terrace on the Square
St. John's, NL Canada
A1B 4J9

Tel: 709-724-3800
Fax: 709-754-3800

June 5, 2023

Board of Commissioners 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: Request for Re-hearing of Newfoundland Power's Application
re Memorial Substation Power Transformer Replacement**

On March 3, 2023 Newfoundland Power ("NP") filed an Application with the Public Utilities Board (the "Board") entitled *2023 Supplemental Capital Expenditure Application – Memorial Substation Power Transformer Replacement* (the "Application"). Following a round of Requests for Information (RFIs) and submissions by intervenors, the Board issued Order No P.U. 14(2023) (the "Board's Order") on May 31, 2023. The Decision Summary follows:

"The Board will approve the application filed by Newfoundland Power Inc. ("Newfoundland Power") for approval of supplemental capital expenditures in the amount of \$1,614,000 to purchase and install a replacement power transformer for the Memorial Substation in St. John's."

Pursuant to Section 28(2) of the Regulations made under the *Public Utilities Act*, RSNL, c. P-47 (the "Act"), the Consumer Advocate requests that the Board rehear the matter as the consequences resulting from compliance with the decision will result in a serious violation of longstanding regulatory principles requiring that rates be fair and non-discriminatory.

In particular, Section 73 of the Act states:

All tolls, rates and charges shall always, under substantially similar circumstances and conditions in respect of service of the same description, be charged equally to all persons and at the same rate, and the board may by regulation declare what shall constitute substantially similar circumstances and conditions.

By ordering that MUN-T2 transformer replacement costs be recovered from all customers rather than only MUN, the sole beneficiary of the project, the Board is violating the condition that all customers be charged the same rate under substantially similar circumstances and conditions. Memorial University

(“MUN”) is being charged the same rate as other General Service Rate 2.4 customers, but under different circumstances and conditions. The Board’s Order, in effect, provides a subsidy to MUN that is paid for by other customers supplied by Newfoundland Power.

Basis for the Consumer Advocate’s Request for Re-hearing

1) The point at issue in this request for re-hearing is not the need for the project, but rather who pays for the project if it goes forward. The record shows that the MUN Substation and all equipment in the MUN Substation benefits a single customer – Memorial University’s St. John’s campus (MUN). Therefore, if rates are to be fair and non-discriminatory, MUN must pay for all facilities that benefit only MUN.

2) As noted in Hydro’s submission on the Application (dated March 28, 2023):

In Hydro’s opinion, and in alignment with the accepted practice in this jurisdiction, expenditures incurred on transmission assets serving only one customer should be recovered from that customer either through a direct contribution from that customer or recovered through the customer rates through a specifically-assigned charge.

Hydro goes on to say,

Existing policies and accepted practices in this jurisdiction require customers to pay up-front contributions to receive electrical service that is safe and reliable. These regulatory policies exist to limit the amount of capital investment to provide service to a single customer to ensure the common costs to be recovered from all customers through published rates remain reasonable.

Hydro’s submission suggests that if a capital contribution is not forthcoming from MUN, the project costs will be borne by other customers, “*potentially creating a subsidization concern*”. The Board’s Order does not specifically address this point; however, the Board has addressed this concern in previous Orders approving the use of specifically-assigned charges for Island Industrial Customers.

3) The Board's Order states, “*The Board notes that General Service customers are supplied through a single supply point which is included in Newfoundland Power’s cost of service and funded by all ratepayers.*” This statement is misleading as the characteristics of the single supply point can vary widely. For example, a single supply point for a typical household is a pole- or pad-mounted transformer that supplies not only that household, but several other households as well. The Board’s statement implies that MUN is being treated the same as the 56 other General Service customers served by NP with demand greater than 1000 kVA (Rate 2.4 customers, Table 5-2 of NP’s 2022/23 GRA). However, MUN’s single point of supply includes a dedicated substation and two transformers, MUN-T1 and MUN-T2, each with the capacity to carry the entire substation load should the other fail. MUN-T1, which was installed ten years before MUN-T2, is in fact

carrying the full load of the MUN Substation now.¹ There is no evidence on the record indicating that each and every General Service customer has a point of supply that includes a dedicated substation with two mutually redundant transformers. If a capital contribution toward the project is not provided by MUN, the sole beneficiary of the project, the other 56 General Service Rate 2.4 customers are providing a cross-subsidy to MUN, so are not being treated equitably.

- 4) The Board's Order states, "*The Board finds that the Memorial Substation represents the single supply point that the University is entitled to receive from Newfoundland Power and is not a special facility under Newfoundland Power's Schedule of Rates Rules & Regulations.*" The basis for this statement is unclear. NP's Schedule of Rates, Rules and Regulations (effective July 1, 2022) addresses "*special facilities*" in paragraph 9(c) only. Paragraph 9(d) addresses payment for special facilities". Paragraphs 9(c) and 9(d) follow:

9(c) Where special facilities are required or requested by the Customer or any facility is relocated at the request of the Customer, the Customer shall pay the Company the estimated additional cost of providing the special facilities and the estimated cost of the relocation less any betterment. The payment may be required in advance or, subject to credit approval, billed to the Customer.

9(d) The Customer shall pay the Company in advance or on such other terms approved by the Board from time to time any contribution in aid of construction as may be determined by the methods prescribed by the Board.

It is not clear how the Board has determined that MUN-T2 is not a special facility based on this very limited description. Hydro's interpretation is that MUN-T2 is in fact a special facility because it provides redundancy in the supply to MUN:

In Schedule A of the Application, and in its response to NLH-NP-002 of this proceeding, Newfoundland Power states that the University does not have its typical redundancy and operational flexibility without MUN-T2 in service. Hydro submits that this confirms that T2 constitutes redundant supply and is therefore a special facility, requiring contribution from the customer as per Clause 9(c) of Newfoundland Power's "Schedule of Rates Rules & Regulations."

The pertinent issue is not whether or not MUN-T2 is a special facility, but rather if the MUN supply point is equivalent to the supply points of other General Service Rate 2.4 customers. As noted earlier, there is no evidence on the record indicating that all General Service Rate 2.4 customers have supply points with a dedicated substation and two transformers, each of which is capable of carrying the entire substation load.

- 5) The Board Order states that "*The evidence demonstrates that the Memorial Substation is the primary supply point to the University while the Long Pond Substation is a redundant supply point which was fully funded on behalf of the customer as a special facility.*" Full funding of the Long

¹ The cover letter to the Application (page 1 of 2) states that MUN-T1 is currently carrying the full load of the MUN Substation. The application itself (para. 3) also states that MUN-T2 is capable of carrying the full load of the MUN substation.

Pond Substation, which was constructed in 2019 at MUN's request, was entirely appropriate. The same logic applies to replacing MUN-T2 at the Memorial Substation. According to NP in its comments dated April 4, 2023 (page 2 of 10), MUN-T2 was added to the MUN Substation in 1976 in response to load growth at the University. Thus, the University is the sole beneficiary of MUN-T2, which provides redundancy within the MUN substation. The cost of replacing it should be borne by the University.

- 6) The Board Order states "*Newfoundland Power's approved cost of service and customer rates do not currently provide for specifically-assigned charges for general service customers. Such a significant change would require a full review of Newfoundland Power's cost of service and customer rates with the input of stakeholders, likely in a general rate application.*" This is not necessary. It is not necessary because as stated in para. 9(d) of NP's Schedule of Rates, Rules and Regulations, the Board has the authority to order a contribution in aid of construction in such circumstances. If the Board believes that specifically-assigned charges for General Service customers should be considered, it should have stated in its Order that the issue will be addressed at Newfoundland Power's next GRA.

Summary

The Board's Order is inconsistent with the long-standing principle in this jurisdiction that rates be fair and non-discriminatory. The Board's Order contradicts previous Board Orders approving the use of specifically-assigned charges for Island Industrial Customers. By ordering that MUN-T2 transformer replacement costs be recovered from all customers rather than only MUN, the sole beneficiary of the project, the Board is violating the legislated condition that all customers be charged the same rate under substantially similar circumstances and conditions. MUN is being charged the same rate as other General Service Rate 2.4 customers, but under different circumstances and conditions. There is no evidence on the record that all General Service customers have a point of supply equivalent to MUN's with a dedicated substation and redundancy of supply provided via two transformers. The Board's Order, in effect, provides a subsidy to MUN that will be paid for by other customers supplied by Newfoundland Power.

The Board should grant approval of the Application only if MUN makes a capital contribution covering the full cost of the project, and NP is **not** allowed to include the cost in rate base.

If there are any questions, please contact the undersigned.

Yours truly,



Dennis Browne, KC
Consumer Advocate

/bb

cc

Newfoundland Power Inc.NP Regulatory (regulatory@newfoundlandpower.com)Dominic Foley (dfoley@newfoundlandpower.com)Lindsay Hollett (lhollert@newfoundlandpower.com)**Newfoundland & Labrador Hydro**Shirley Walsh (ShirleyWalsh@nlh.nl.ca)NLH Regulatory (NLHRegulatory@nlh.nl.ca)**Board of Commissioners of Public Utilities**PUB Official Email (ito@pub.nl.ca)Jacqui Glynn (jglynn@pub.nl.ca)