

Office of the Consumer Advocate

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August 30, 2022

Board of Commissions 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: Newfoundland Power's 2023 Capital Budget Application – Schedule Review

We acknowledge receipt of your correspondence of August 29, 2022, and the Board's request that we provide our response regarding the scheduling of a technical conference by the end of day, Tuesday, August 30, 2022. What follows is our request for a technical conference.

Request for a Technical Conference

Newfoundland Power's capital spending continues to be a serious issue for consumers. The 2023 capital budget application makes expenditures which, if approved, will be the highest in Newfoundland Power's history. This comes at a time when efforts are made by both federal and provincial governments and others to find ways and means to bring spending under control in the interest of rate mitigation. Newfoundland Power's 2023 Capital Budget request is an outlier to these efforts.

Further, this comes at a time when the provincial government, through the Department of Justice and Public Safety, has launched a review of the Public Utilities Act and legislation under its mandate. Parties have already included their submissions to the task force established for this purpose. In our submission, reference was made to capital expenditures. The task force was requested to consider issues pertaining to the annual capital budget applications for both Newfoundland Power and Newfoundland and Labrador Hydro. The submission referenced some budgetary history as follows:

“The PUB approved every capital dollar requested by NP in the 16-year period from 2005 through 2021, a period during which there were no full public hearings on these capital budget applications. It is revealing that NP's capital spending increased from \$49,151,000 in 2005 to \$111,298,000 in 2021. That is an overall increase of 126.4%, representing an average annual increase of 5.2% over the 16-year period. Yet, over the same period the Canadian consumer price index increased by 32.4% overall, representing only 1.77% yearly on average.”

The request for a technical conference into Newfoundland Power's largest proposed capital budget in its history, therefore, has context. Newfoundland Power's 2023 Capital Budget Application is its first under the new guidelines established by the Board in January 2022.

The purpose of a technical conference according to Midgard is to focus on a limited number of specific capital budget issues that require further clarification. Further, one of the roles of a technical conference is to deal with a particularly difficult issue or set of issues. According to Midgard, "a Technical Conference will be used in concert with the RFI process to gain a full understanding of the scope and nature of a limited set of specific capital budget issues."

We therefore request a Technical Conference to deal with the following issues:

- 1) Newfoundland Power's use of inflation indexes with respect to reporting historical expenditures and determining expenditures going forward.
- 2) The transmission line rebuild project, particularly the proposed replacement of transmission line 55L and thorough analysis of the same.
- 3) Various matrixes developed by Newfoundland Power including the prioritization matrix and the calculation and experience elsewhere and the quantification of risk, etc.
- 4) The NPV analysis of the LED Street Lighting Replacement Program.
- 5) Financial aspects (i.e., pay-back periods) of projects proposed in the application in light of government policies relating to a carbon-free society.
- 6) Newfoundland Power's reliability policy (SAIDI and SAIFI) and use of reliability indexes and customer complaints to support the addition of reclosers, the rebuild of transmission line 55L and the refurbishment of distribution feeder SUM-01.
- 7) The "New Meters" and "Meters Replacement" projects and implications relating to a move to AMI (Advanced Metering Infrastructure).
- 8) The proposed asset management review and Newfoundland Power's forecast of its impact on capital spending going forward, particularly projects classified as renewal.
- 9) The electrification program, particularly the latest developments relating to utility-owned EV charging infrastructure; i.e., cost increases, government rebates, etc.
- 10) Other items arising from the above.

In conclusion, the Consumer Advocate's request for a Technical Conference arises from the participation barriers identified by Midgard impacting the ability of the Consumer Advocate as an intervenor to effectively participate and intervene in the Capital Budget approval process within established guidelines.

This really reduces to an evidentiary issue, and as Midgard notes, there is an imbalance between Newfoundland Power's extensive familiarity with its technical information and that of the intervenors, such as the Consumer Advocate. As Midgard identified in their October 29th, 2020, report to the Board, a balancing of interests is required regarding the evidentiary aspect of the capital budget application process and a technical conference would enhance the intervenor's understanding of Newfoundland Power's evidence. As Midgard put it:

"The tension between the needs of ratepayers and utilities is recognized in the adversarial structure of typical Canadian regulatory processes. The regulatory Board adjudicates applications in consideration of both the evidence provided by the utility applicant and the questions and counterpoint arguments submitted by intervenors (who represent ratepayers or other interest groups).

To function effectively and ensure the necessary tension between interests, a capital budget approval process requires the applicant to provide complete and accurate supporting information for the planned investments. It is important to recognize that even if the application is full, complete and accurate, a significant informational asymmetry always exists between the applicant (i.e., utility) and the intervenors and regulatory Board. As a result, intervenors need time to review and digest the application, ask questions about unclear or missing information, and submit counterpoint evidence (if desired) before all parties submit final argument to the regulatory Board. If the process is transparent and equitable, intervenors will have sufficient information to challenge the applicant about any remaining areas of disagreement, and develop effective argument that will inform regulatory Board decisions. Well informed argument from both the applicant and intervenors should (at least theoretically) provide the necessary tension to enable the regulatory Board to make fair and considered decisions."

(See: Page 18 – Capital Budget Application Guideline Review – Midgard – October 29, 2020)

We would therefore request the Board to consider the foregoing and that a technical conference be ordered in relation to the above matter.

Yours truly,



Stephen Fitzgerald
Counsel to the Consumer Advocate

Encl.
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