

1 **Q. Reference: CA-NP-005**

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3 **It is stated “The Company’s 2024 return on rate base application proposes a change in**
4 **customer rates in order for Newfoundland Power to have a reasonable opportunity to**
5 **earn the just and reasonable return determined for 2024.”**

6 **a) What regulatory mechanisms are in place to provide Newfoundland Power a**
7 **“reasonable opportunity to earn a just and reasonable return”? In Newfoundland**
8 **Power’s opinion, are these mechanisms adequate? How might they be improved?**

9 **b) Is there a legal clause or regulatory principle that “guarantees” Newfoundland**
10 **Power’s return in every year?**

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12 A. a) The *Public Utilities Act* (the “Act”) and the *Electrical Power Control Act, 1994*
13 (the “EPCA”) provide the statutory framework for a utility’s annual earnings.
14 Section 80(1) of the Act provides that a public utility is entitled to earn a just and
15 reasonable return on its rate base in each year. Section 3(a)(iii) of the EPCA provides
16 that customer rates should be set so as to provide sufficient revenue to the utility to
17 enable it to earn this just and reasonable return.

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19 The statutory framework is consistent with the fair return principle and has been
20 recognized as such by the Board.¹ The Board has described the fair return principle as
21 allowing utilities an “opportunity” to earn a fair rate of return.²

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23 Periodic general rate applications are the primary regulatory mechanism by which the
24 Board provides a utility with a reasonable opportunity to earn a just and reasonable
25 return.³ In a general rate application, the Board approves customer rates based on the
26 utility’s forecast average rate base, rate of return on rate base, and forecast revenue
27 requirements for the utility’s proposed test year(s).

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29 Between general rate applications (that is, for a year that occurs after a test year but
30 before the required filing of the subsequent general rate application) the Board orders
31 the Company to file an application for approval of its forecast average rate base and
32 rate of return on rate base for that year. The forecast average rate base and rate of
33 return on rate base proposed in the application must maintain the common equity
34 ratio and return on common equity accepted for rate setting in the prior general rate
35 application order.⁴

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37 The Company submits that the existing regulatory mechanisms have functioned so as
38 to permit Newfoundland Power to earn a just and reasonable return each year.

1 See Order No. P.U. 32 (2007), Appendix A, page 6.

2 Ibid.

3 See Order No. P.U. 13 (2013), page 37, lines 7-8 where the Board stated that “a three-year period between general rate applications is generally consistent with sound utility regulation.”

4 See, for example, Order No. P.U. 3 (2022) page 20, lines 17-20. Previously, changes to the Company’s rate of return on equity between general rate applications were determined through the use of the automatic adjustment formula, which was adopted by the Board in 1998. See Order No. P.U. 16 (1998-99). The Board suspended the use of the automatic adjustment formula in December 2011 following an application by Newfoundland Power. See Order No. P.U. 25 (2011).

- 1 b) No, there is no legal clause or regulatory principle that “guarantees” Newfoundland
2 Power’s return in every year. See part a).