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October 25, 2024

Via Email

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

Attention: Jo Galarneau
Executive Director and Board Secretary

Dear Ms. Galarneau:

Re: Newfoundland Power Inc. - 2025 Capital Budget Application
– Consumer Advocate's Request for Oral Hearing

Further to the above-captioned, attached is the Consumer Advocate's Request for an Oral Hearing.

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

Yours truly,

Dennis Browne, KC
Consumer Advocate

Encl.
/bb

cc **Newfoundland Power Inc.**
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NP Regulatory (regulatory@newfoundlandpower.com)

Newfoundland & Labrador Hydro
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IN THE MATTER OF the *Public Utilities Act* (the *"Act"*);

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 2025 Capital Budget; and
(b) fixing and determining its 2023 rate base.

CONSUMER ADVOCATE'S REQUEST FOR ORAL HEARING (Submitted October 25, 2024)

1. On June 28, 2024 Newfoundland Power filed its 2025 Capital Budget Application (2025 CBA) with the Board. By its Application, Newfoundland Power is seeking $184,209,000 of ratepayers' money to pay for their proposed budget ($164,498,000 in new expenditures in 2025, 2026 and 2027, and $19,711,000 for projects that were previously approved by the Board). The $184.2 million budget represents a $49.2 million and 36.5% increase over the 2024 CBA (CA-NP-193).

2. In light of large rate increases brought on by numerous uncertainties in the province's electricity supply, there is an extremely high sensitivity on the part of electrical consumers in the province to ensure that expenditures by a utility be subject to transparent, effective oversight. In Board Order No. P.U. 36(2021) the Board, "*acknowledges the rate pressures which are expected in association with the commissioning of the Muskrat Falls Project. The Board believes that, given the circumstances, both Newfoundland Power and Hydro should renew their efforts to provide evidence which demonstrates that every effort is being made to reduce costs for customers while ensuring the continued provision of reliable service.*"

3. The large capital budget increases are expected to continue in future years, averaging $163 million annually from 2025 through 2029 (Application, 2025 – 2029 Capital Plan, page 1). According to CA-NP-082a, average annual capital expenditures are forecast to increase in the 2025 to 2029 period relative to the 2020 to 2024 period as follows:

   i. For distribution, by 17 .9%.
   ii. For substations, by 39.4%.
   iii. For transmission, by 62.9%.
   iv. For generation, by 286.6%.
   v. For transportation, by 47.3%.
   vi. For general property, by 62.4%.

   These increases compare to the forecast average annual inflation rate from 2025 to 2029 of 1.7%.

4. CA-NP-005, Attachment A indicates that depreciation cost will have increased dramatically from 1994 to 2026F, rising from approximately 55% of operating expenses in 1994 to exceeding it now. Increases in depreciation are driven primarily by capital spending (CA-NP-194). Further, CA-NP-055 states "*The forecast increase in average rate base from 2024 to 2025 forecast is $47.7 million. The estimated impact on Newfoundland Power's return on equity for 2025 is $1.8 million.*" More specifically, NP's shareholder gains another $1.8 million while in return customers get a rate increase owing to the $47.7 million increase in rate base. This trend will continue. As shown in CA-NP-207, NP forecasts that its average rate base will increase by $108.2 million in 2029 relative to 2024, and its return on equity will increase by an additional $1.9 million in 2026, $2.3 million in 2027, $3.3 million in 2028 and $4.1 million in 2029. NP's capital spending is a profitable endeavour for its shareholder.

5. Having regard for the sheer scale of Newfoundland Power's current application for $184.2 million, and the relentless trajectory of significant capital budget costs year over year, the ratepayers are entitled to complete justification from Newfoundland Power for its expenditures to ensure that the Electrical Power Control Act, 1994 is complied with and that Newfoundland Power is delivering power to consumers in the province consistent with the requirements set out in the Act which requires that power be delivered to customers at the lowest possible cost, in an environmentally responsible manner, consistent with reliable service. ***It is the Consumer Advocate's position that the Board should order an oral hearing open to the public on the Capital Budget items listed below***, which clearly have not been fully explained or justified by Newfoundland Power, despite the RFI process.

6. The **Issues** arising in the proceeding that have not been adequately addressed in evidence filed to date are as follows:

   a) Limited control by NP senior management over capital spending. According to CA-NP-010, NP senior management provided no documentation to line managers with respect to budget control, prioritization and cost efficiencies in the 2025 CBA in light of rate pressures brought on by the Muskrat Falls Project. Also, it is stated (Application, 2025 - 2029 Capital Plan, page 6) "*The effect of age on the condition of Newfoundland Power's electrical system can be observed through its recent experience with equipment failures. An average of approximately 1,100 equipment failures per year were experienced on the distribution system from 2019 to 2023, which represents a 6% increase compared to the previous five-year period.*" Furthermore, CA-NP-224 shows that in 12 of 23 cases, SAIDI actually worsened following Substation Refurbishment and Modernization projects. In spite of NP's large capital budgets in recent years, equipment failures are increasing, and in many cases reliability has actually worsened following major project upgrades. This suggests that the capital budgets are improperly prioritized. NP should be required to explain how, and if, senior management is exercising control over capital spending in order to minimize rate impacts on customers.

b) ***Little progress toward meeting requirements set out in Board's Provisional Capital Budget Application Guidelines.*** In CA-NP-012 (pertaining to NP's 2024 CBA) it is stated *"There have been no substantial changes to Newfoundland Power's approach to asset management since June 2022."* According to CA-NP-011, NP has made no fundamental changes to its overall approach to asset management since filing its 2024 Capital Budget Application. Further, it is not clear if the asset management study that is now underway will enable NP to meet the requirements set out in the Board's Provisional Capital Budget Application Guidelines (CA-NP-146). NP should be required to show that it is taking the steps necessary to meet the requirements set out in the Provisional Guidelines, or otherwise explain why it is not doing so.

c) ***Asset Management Update Report.*** According to CA-NP-081c, "*The refurbishment and replacement of existing assets is forecast to account for an average of approximately $98 million of annual capital expenditures from 2025 to 2029, or 60% of total annual expenditures*." A key component of asset management review should be to optimize capital expenditures, particularly the refurbishment and replacement of existing assets given the very high forecast of capital expenditures. Yet the Asset Management Update Report (page 4) states "*The pilot project indicated that Newfoundland Power is currently not in the position to implement quantitative risk modelling. AHIs factor into risk modelling as they are a key determiner in probability of failure of an asset. It would be prudent to determine which assets require risk modelling based on the assets that are being selected for AHIs. As well, large amount of financial inputs, such as the reactive cost of asset replacement, would need refinement to provide a more accurate representation of risk for the assets. Given the requirements of quantifiable risk modeling, further exploration should be completed as asset management is matured.*"

   NP should be required to explain why quantifying the risk of failure does not warrant the highest priority when it forecasts that expenditures on such programs will average $98 million annually from 2025 to 2029. The Board would benefit from hearing an oral cross-examination of Newfoundland Power staff about the ongoing asset management review to determine if it is consistent with changes going on in the industry and best practice emerging elsewhere. At the very least, such cross-examination would benefit the Board as it moves to finalize the Capital Budget Application Guidelines.

d) ***Inadequate planning.*** According to CA-NP-028, NP has not produced a 5-year Distribution Expansion Plan. In the absence of such a plan, it is not possible to determine if the capital budget application adequately addresses and assesses the needs of NP's customers, particularly as they relate to government net-zero emissions and electrification efforts. In response to CA-NP-027 (pertaining to NP's 2024 CBA) NP indicates that it does not plan its distribution system in an integrated manner. It states "*Information related to integrated resource planning, reductions in harmful environmental emissions and government zero-carbon efforts, is not included in these guidelines. The topic of integrated resource planning is being considered as part the Board's review of Newfoundland and Labrador Hydro's Reliability and Resource Adequacy Study.*" In the response to CA-NP-165 (pertaining to NP's 2024 CBA) NP

reconfirms "*that its current practices do not fully incorporate integrated distribution system planning.*" NP should be required to explain why integrated distribution system planning is not in the best interests of its customers and is not necessary to provide least cost supply.

e) ***Inadequate assessment of alternatives***. According to CA-NP-017, NP does not assess benefit to cost ratios for its projects and programs and does not use benefit to cost ratios for ranking projects and programs. According to CA-NP-018, NP did not undertake analyses to determine "*unit costs of reliability and risk improvements of proposed projects, considered alternatives, or ratepayer valuations thereof*". Application Schedule B, page iii, states "*Newfoundland Power does not currently have the data or software necessary to provide calculations of risk mitigation or reliability improvement.*"

According to NL Hydro and NP 2022 Net Metering reports, as of December 31, 2022, Hydro and NP had a total of 3 and 28 net metering customers, respectively. In a November 1, 2022 News Release by the Nova Scotia government (https://news.novascotia.ca/en/2022/11/01/new-program-commercial-net-metering) it is stated "*In the spring, our legislation cleared the way for homeowners to go green and lower their energy bills without any extra charges," said Tory Rushton, Minister of Natural Resources and Renewables. "Now, regulations are in place to create a new commercial net-metering program that will help businesses pay less for power, support our green economy and take us another step closer to achieving our climate change goals.*" It is understood that as of January 2022, there were around 4,100 net metering customers in Nova Scotia most of which are residential customers with solar panels. This is 132 times the number of net metering customers in NL. NP should be required to explain that it is adequately assessing environmentally friendly alternatives to its traditional wires undertakings.

f) ***Limited customer input on the value placed on reliability***. According to CA-NP-014, NP does not solicit customer input on willingness to pay for reliability improvements, instead relying solely on customer's overall satisfaction with service delivery. Such information has limited value as most every survey conducted by an electric utility would show that the two most important issues for electricity customers is reliability and price (CA-NP-203). What is not known is how much customers are willing to spend on reliability. In CA-NP-065d Newfoundland Power states "*in the Company's view, maintaining current levels of service reliability is least cost for customers when compared to (i) degrading reliability, or (ii) increasing reliability. As such, customers would incur incremental costs if Newfoundland Power were to seek to improve or degrade system reliability.*" This is a circular argument whose premise is unsupported. NP is targeting current levels of reliability that in the case of SAIDI is 40% better than the Canadian average, and in the case of SAIFI, is about equal to the Canadian average.

NP has not provided documentation supporting its claim that current levels of reliability are optimum and least cost (CA-NP-197):

- (Application, 5.1 Port Union Building Replacement, page 1) Footnote 1 states "*To decrease the duration of customer outages, more remote areas are provided with power line technician crew(s) and commonly required materials (distribution transformers, cross-arms, conductor, streetlights and hardware).*"

- (Application, 2025 - 2029 Capital Plan, page 3) NP states "*Providing customers with reliable service requires capital investments to maintain the condition of the electrical system and the Company's operational response capabilities when outages occur.*"

- (Application, 6.2 Asset Management Technology Replacement, page 2) It is stated "*Maintaining reliable service for customers is expected to require increased investments in the planned refurbishment and replacement of assets going forward. Optimizing the future replacement of these assets in order to balance performance, cost and risk is a key consideration for Newfoundland Power's asset management journey.*"

There is an incremental cost associated with maintaining current levels of reliability. In spite of the importance that customers place on reliability, Newfoundland Power does not even track customer complaints relating to reliability (CA-NP-064a). NP should be required to explain how maintaining current levels of reliability is least cost and consistent with the value customers place on reliability.

g) Inadequate assessment of alternatives for Replacement Meters and New Meters programs. According to CA-NP-083, the annual costs for the new meters and replacement meters programs are forecast to increase from $457,000 and $648,000 in 2025 to $774,000 and $1,150,000 in 2029, increases of 69.4% and 77.5%, respectively. NP is currently using AMR (Automatic Meter Reading) meters rather than AMI (Advanced Metering Infrastructure, or smart meters) for these programs. AMR metering is not compatible with time-varying rates, and has numerous deficiencies compared to smart meters.

New Brunswick Power filed evidence with the New Brunswick Energy and Utilities Board on August 1, 2019 entitled "Advanced Metering Infrastructure Capital Project (https://www.nbpower.com/media/1489724/nbp0103.pdf). The New Brunswick Power study quantified the following benefits of smart meters relative to AMR: i) Reduced Manual Meter Reading and Meter Service Orders; ii) Avoided Meter Replacement Costs; iii) Conservation Voltage Reduction; iv) High Bill Alert Service; v) Distribution Network Losses; vi) Meter Accuracy Losses; vii) Avoided Cost of Load Research Program; viii) Avoided Cost of Net Metering Program; ix) Avoided Cost of Meter Services Manager Salary; x) Avoided Cost of Meter Reading Vehicles; xi) Outage Restoration (Crew management); xii) Reduced Customer Inquiries; xiii) Avoided Cost Of Handheld System; xiv) Unbilled/Uncollectable Accounts; xv) Avoided Cost of Meter Reading Supervisor; and xvi) Reduced Overtime for Meter Service Orders. It also identified 12 additional customer and societal benefits of AMI that were not quantified such as "*time-varying rates, which can provide significant*

benefits to customers and NB Power by providing more efficient price signals, and geographically-targeted demand-side management (DSM) programs, which can avoid or defer costly transmission & distribution ("T&D") investments based on AMI-derived visibility into grid needs and patterns."

Dunsky identified the 12 additional benefits that were not quantified in the New Brunswick Power study; Dunsky also reviewed the list of quantified benefits. However, in Dunsky's 2019 study of smart meters in NL, it assessed *load shifting potential of dynamic rate structures, including an estimate of the cost of AMI implementation. The consultant did not complete an overall assessment of smart meters*." Customers are owed an explanation as to why NP is replacing meters and installing new meters with AMR technology when these meters are likely to soon become stranded assets. Application Schedule B, page iv states "*Newfoundland Power also considered risks of assets becoming stranded for each proposed project and program*". However, NP has not incorporated the risk of an asset becoming stranded owing to new technology (smart meters), new environmental regulations such as net-zero emissions and electrification policies, distributed generation, rate design, etc., or owing to a significant rate increase such as that forecast from July 1, 2024 to July 1, 2025. NP should be required to explain that its investments in meters, and all assets for that matter, have a low probability of becoming stranded.

h) Use of historical averages for budget estimation. (Application, Table 2) The table indicates that Nova Scotia Power and Maritime Electric use historical averages for budget estimation with annual inflation. CA-NP-099c indicates that Nova Scotia Power used an inflation rate of 2.03% for its estimates in its 2024 Annual Capital Expenditure Plan completed using historical averages and Maritime Electric used an inflation rate of 3.00% for its estimates in its 2025 Capital Budget Application completed using historical averages. CA-NP-099b indicates that Newfoundland Power considers its jurisdictional scan to be reasonable in that it included all Canadian utilities subject to the filing of annual capital budgets. NP should be required to explain why a similar approach is not appropriate given its very large proposed budget increases in 2025 and beyond. CA-NP-101d indicates that NP's capital spending would be substantially reduced if capped at the previous 3- or 5- year averages of capital spending (reduced by about $60 million in 2029).

i) Sanity checks on project spending. (Application, 5 .1 Port Union Building Replacement, page 10) It is stated that the cost to replace the Port Union building is estimated at about $1.3 million. A typical house price in Port Union is under $200,000. In CA-NP-141, NP indicates it does not know how much it would cost to build a single-family home of comparable size in Port Union. NP should be required to explain why such sanity checks on the proposed $1.3 million expenditure to replace the Port Union building are not necessary.

j) Falling behind other provinces. New Brunswick Power filed evidence with the New Brunswick Energy and Utilities Board on August 1, 2019 entitled Advanced Metering Infrastructure Capital Project which states (page 5) "*The pace of technological change*

has been increasing and will continue to increase. NB Power believes that continuing to plan on the basis of making investments in traditional utility assets in the face of such change may not be prudent and reasonable."

Further, Nova Scotia Power states on its website "*Globally, the electrical grids that have served us over the past century are evolving through new technology into "smart grids". Smart grids offer a future in which individual pieces of the electrical system - including "smart devices" in customers' homes and businesses - can communicate with one another, so that the entire electrical system works together to use energy more efficiently. This means lower overall costs for customers and a cleaner environment.*" Yet NP continues "business-as-usual" and has not even undertaken a fulsome study of smart meters, ruling it out on the basis that (CA-NP-016d) "*system cost savings resulting from the demand response potential of AMI technologies are not sufficient to offset implementation costs at this time*". New Brunswick Power justified its AMI program even without quantifying load shifting benefits. According to Natural Resources Canada, more than 82% of Canadian residents have adopted smart meters with a similar trend observed in the United States (https://www.mordorintelligence.com/industry-reports/north-america-smart-meters-market-industry/market-trends).

NP should be required to explain how under such circumstances, the province is not being left behind.

k) Capital budget envelope. In the Capital Budget Application Guidelines Review, the October 2020 Midgard Consulting report stated on page 22: "*The PUA specifies the frequency of Capital Budget Applications and sets materiality thresholds requiring approval, however, it does not specify that the NLPUB must review and approve expenditures on a line by line basis. Midgard is of the opinion that existing legislation enables the NLPUB either to continue with the existing itemized explicit project approvals, or alternatively, to approve capital budget envelopes that represent all or some portion of the total proposed utility budgets. Using the latter approach, utility management may need to reprioritize, modify or defer some projects to meet the approved capital budget envelope.*"

As pointed out in the Utility Management Responsibility Report by Midgard Consulting Incorporated, the ways that regulators review capital budgets and utilities approach capital budget applications are changing. The response to NP-CA-006 pertaining to NP's 2024 CBA states "*Three (3) of the four (4) regulatory approaches used across Canada explicitly have some form of capital budget envelope…".*

It is time for the Board to heed the advice of its consultant. NP should be required to explain why capital budget envelopes are inappropriate in an environment where its capital spending is increasing by amounts that are far in excess of inflation.

l) Fortis's Influence. In CA-NP-207 pertaining to NP's 2024 CBA the following question was asked:

Is it the policy of Fortis that its subsidiaries, including Newfoundland Power, should grow their rate bases according to how much capital expenditures they can get through from a regulated point of view?

In its answer Newfoundland Power stated the following:

b. Newfoundland Power's rate base largely reflects its annual capital expenditures, which are determined in accordance with the Provincial Power Policy. The company's capital planning process applies sound engineering and objective data to determine which expenditures are required annually to provide customers with access to safe and reliable service at the lowest possible cost.

Despite this answer, in a public statement dated February 9, 2024 reporting its Fourth Quarter and Annual 2023 Results, Fortis, Newfoundland Power's sole shareholder, states "*The Corporation's $25 billion five-year capital plan is expected to increase midyear rate base from $37.0 billion in 2023 to $49.4 billion by 2028, translating into a five-year compound annual growth rate of 6.3%* (https://www.fortisinc.com/docs/default-source/finance-regulatory-reports/annual-reports/q4-2023-pr-mda-fs---final.pdf?sfvrsn=e8537298_2).

In describing the plan, Fortis made it known that its plan was based in part on the projected capital expenses they expected to get approved from a regulated point of view. This public statement suggests that Fortis is likely relying, in part, on what Newfoundland Power itself could get through from a regulatory point of view, which suggests further that either Newfoundland Power has provided Fortis with a target capital budget amount that Newfoundland Power expects to obtain from the Board, or Fortis has informed Newfoundland Power of its ambitious capital spending plan and expects Newfoundland Power to contribute to it by maximizing how much capital expenses they can get through the capital budget process.

Newfoundland Power ought to explain whether Fortis's declared capital budget policy shapes Newfoundland Power's capital budget application or not. A cross examination of Newfoundland Power executives on this issue would better inform the Board and ratepayers on this matter.

In short, there is a great deal of evidence missing in the Application. If the information identified above is not provided, the parties and the Board will not have a complete understanding of the issues, and the Board will not in a position to determine if the proposed expenditures meet the requirements of the Electrical Power Control Act, 1994. It is not at all clear that Newfoundland Power has a coordinated planning process that gives proper weighting to alternatives with much smaller environmental footprints than the proposed projects. It is our submission that an oral hearing addressing the above topics is necessary for the Board to make a more informed decision. Newfoundland Power's submission lacks the evidentiary quality required for approval of these expenditures by ratepayers. We are prepared to participate in this hearing in a timely fashion, which we anticipate would take two (2) days.

Finally, we close on some general observations. There has not been an oral hearing on utilities' capital budget applications in 20 years. What has happened in the interim is in evidence.

Further, the failure of the Board to balance the interests of ratepayers and the utilities, through the implementation of capital budget envelopes as recommended by experts, needs to be remedied.

All issues raised in this submission can be addressed in an oral hearing.

DATED at St. John's, Newfoundland and Labrador, this 25th day of October, 2024.

Per: 

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