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Dear Madam/Sirs:

Re: Newfoundland Power Inc. - 2025 Capital Budget Application - To Parties - Response to Consumer Advocate Request for Oral Hearing

The Consumer Advocate has requested that the Board order an oral hearing in Newfoundland Power's 2025 Capital Budget Application.

The Consumer Advocate submitted that the Board should order an oral hearing open to the public on a list of capital budget items which, in the Consumer Advocate's opinion, have not been fully explained or justified by Newfoundland Power despite the request for information process. Newfoundland Power stated that the Board's public written hearing process has provided the parties with comprehensive documentary evidence to support the proposals, as well as a full and fair opportunity to interrogate the proposals. In Newfoundland Power's view, an oral hearing would not further the evidentiary record of the proceeding.

It is well established that the Capital Budget Application Guidelines (Provisional) ("Provisional Guidelines") provide that annual capital budget applications will normally be addressed through a public written hearing process. The Newfoundland and Labrador Court of Appeal has confirmed that the written hearing process allows for an open and transparent process, appropriate to utility capital budget applications, and provides a reasonable opportunity for parties to

participate.¹ An oral hearing may be held where the Board determines, on its own motion or at the request of a party, that it is necessary to assist the Board in gaining a full understanding of the issues to be decided in the application.²

Newfoundland Power's 2025 Capital Budget Application ("Application") was filed on June 28, 2024. To date, the review process has included public notice, a presentation of the Application to the parties by Newfoundland Power, and two rounds of requests for information ("RFIs"), providing the opportunity for more than 795 RFIs to be filed and answered.³ Where required, Newfoundland Power has filed evidence in support of the Application, including cost-benefit analyses, risk ratings, assessments of alternatives, and expert reports. The schedule allowed for the filing of expert evidence by the parties but no expert reports were filed. There was also the opportunity for the public to submit written comments.⁴

While not part of the Application review process, the Board notes that an oral public hearing for Newfoundland Power's 2025/2026 General Rate Application ("GRA") was recently convened and concluded by the Board in June 2024.⁵ Newfoundland Power presented four company witnesses⁶ who provided direct evidence and were cross examined by the Consumer Advocate and other parties, including the Board, on several of the issues currently raised by the Consumer Advocate.⁷

The Board's determination as to whether an oral hearing is necessary is not based on whether Newfoundland Power has justified the proposed expenditures. Rather, it is based on whether oral testimony and cross-examination are necessary and would be of assistance to the Board in the issues to be decided in the Application. The Board is satisfied that the written process has allowed for a comprehensive review of the proposals, and that an oral hearing would not be of assistance to the Board in relation to the issues raised by the Consumer Advocate. The Board addresses each matter, grouped together where appropriate, raised by the Consumer Advocate below.

Issue 1 - Control Over Capital Spending

The Consumer Advocate submitted that despite large capital budgets in recent years, equipment failures are increasing, and in many cases, reliability has worsened following major project upgrades. The Consumer Advocate submitted that this suggests that capital budgets are

¹ Consumer Advocate vs. Board of Commissioners of Public Utilities, 2021 NLCA 50.

² Guidelines, January 2022, page 4 of 18.

³ The total number of RFIs includes a count of the sub-questions under each RFI.

⁴ The deadline for letters of comments was October 31, 2024.

⁵ A total of 11 hearing days were held from June 13-28, 2024 and a public participation day was held on July 9, 2024.

⁶ Mr. Gary Murray, President and Chief Executive Officer; Ms. Paige London, Vice-President, Finance and Chief Financial Officer; Mr. Byron Chubbs, Vice President, Engineering and Energy Supply; and Mr. Michael Comerford, Director, Rates and Supply.

⁷ For example, see the transcript from June 13, 2024 for a discussion in relation to Fortis' Influence with Mr. Gary Murray, the transcript from June 26, 2024 for a discussion with Mr. Byron Chubbs in relation to asset management, the transcripts from June 26 and 27, 2024 for a discussion with Mr. Byron Chubbs and Mr. Michael Comerford in relation to Advanced Metering Infrastructure.

improperly prioritized and Newfoundland Power should be required to explain how, and if, senior management is exercising control over capital spending to minimize customer rate impacts.

Newfoundland Power does not agree and submitted that increased equipment failures are not due to improperly prioritized capital budgets, but rather are reflective of aging and deteriorating infrastructure, as well as more frequent and severe weather events. Newfoundland Power submitted that all proposed capital expenditures in the Application have been justified, and no additional relevant evidence would be forthcoming through oral testimony.

The Board notes that as part of the Application process Newfoundland Power has provided comprehensive information on its proposed capital expenditures, consistent with the requirements of the Provisional Guidelines. Further, during the recent GRA hearing, the Consumer Advocate had the opportunity to orally cross-examine senior management on issues pertaining to control over capital spending. Therefore, the Board does not believe that an oral hearing would yield any further evidence that would be of assistance in understanding the issues to be decided in this proceeding.

Issues 2 and 3 - Asset Management

The Consumer Advocate submitted that Newfoundland Power should be required to show that it is taking the steps necessary to meet the requirements set out in the Provisional Guidelines pertaining to asset management, or otherwise explain why it is not doing so. Additionally, the Consumer Advocate submitted that 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 in the industry and best practice, and that it would assist the Board as it moves to finalize the Provisional Guidelines.

Newfoundland Power does not agree and submitted that it has met the requirements of the Provisional Guidelines when the required information is available. When the information is unavailable Newfoundland Power submitted that it has provided an explanation as to why the information cannot be provided, and the basis upon which the proposals should be approved in its absence. With respect to its ongoing asset management review, Newfoundland Power submitted that it has provided comprehensive information on the scope and status of the review, and would not be in a position to provide any greater detail in oral testimony.

The Board recognizes that Newfoundland Power's asset management review is currently ongoing and that the record of this proceeding includes information on changes implemented to date, major milestones, and progress updates on milestones reached. Further, as stated in the Board's response to the Consumer Advocate's request for an oral hearing in Newfoundland Power's 2024 Capital Budget Application, the Board believes that Newfoundland Power's asset management review should be addressed outside of the capital budget application process to allow for appropriate analysis, study, and consideration of all the relevant issues and perspectives.

Issues 4 and 5 - Distribution Planning and Non-Wire Alternatives (“NWAs”)

The Consumer Advocate submitted that Newfoundland Power has not produced a five-year Distribution Expansion Plan, and in the absence of such a plan, it is not possible to determine if the Application adequately addresses and assesses the needs of customers, particularly as they relate to government net-zero emissions and electrification efforts. Further, the Consumer Advocate submitted that Newfoundland Power should be required to explain that it is adequately assessing environmentally friendly NWAs.

Newfoundland Power does not agree and submitted that its Distribution Planning Guidelines, asset management policies and practices, and forecasts for new customer connections and load growth, are used in developing the five-year plan outlined in the Application and the 2025-2029 Capital Plan. Concerning its assessment of NWAs, Newfoundland Power submitted that there are two projects in the Application where NWAs are relevant and were considered - the 2025 Feeder Additions for Load Growth Project and the Gander Substation Power Transformer Replacements Project. Newfoundland Power submitted that the record of this proceeding provides a level of information on NWAs adequate for the Board to have a full understanding of the Application’s proposals and no additional relevant evidence would be forthcoming through oral testimony.

The Board acknowledges that while Newfoundland Power has not produced a five-year Distribution Expansion Plan, its plans related to the distribution network over the next five years are contained within the Application, including the 2025-2029 Capital Plan. The Board also notes that Newfoundland Power has filed information in this proceeding addressing its consideration of NWAs in its distribution planning process. The Board is therefore satisfied that the written record is adequate and an oral hearing would not assist in understanding the issues in this proceeding relating to distribution planning and NWAs.

Issue 6 - Customer Input on Reliability

The Consumer Advocate submitted that Newfoundland Power should be required to explain how maintaining current levels of reliability is least cost and consistent with the value customers place on reliability.

Newfoundland Power does not agree and submitted that if it were to improve or degrade system reliability customers would incur incremental costs. Newfoundland Power submitted that failures to maintain its electrical system would result in increased equipment failures and customer outages which would result in increased expenditures.

The Board notes that the record of this proceeding, as well as the record of Newfoundland Power’s GRA, provides Newfoundland Power’s position on the relationship between cost and reliability and its rationale for maintaining current levels of reliability. As raised by the Consumer Advocate, Newfoundland Power does not collect information on how much customers are willing to spend on reliability. Therefore, Newfoundland Power would not be able to provide this information in an oral hearing. The Board is satisfied that an oral hearing would not elucidate any

additional relevant evidence, and that the written record is sufficient for the understanding of the issues to be decided in this matter.

Issues 7 and 10 – Metering

The Consumer Advocate submitted that Newfoundland Power should be required to explain that its investment in meters, and all assets, have a low probability of becoming stranded. Further, given the implementation of Advanced Metering Infrastructure (“AMI”) in other provinces, the Consumer Advocate submitted that Newfoundland Power should be required to explain how this province is not falling behind.

Newfoundland Power does not agree and submitted that it considers the risks of assets becoming stranded in preparing its annual capital budget applications. Newfoundland Power submitted that the issue of AMI technology has been explored in both rounds of RFIs as well as in its recent GRA. Newfoundland Power submitted that the implementation of AMI technology is not least cost for customers at this time, and the viability of AMI will be reassessed as new information becomes available.

The Board notes that there is comprehensive information on the written record concerning AMI technology. The Board is aware of the ongoing studies currently being conducted by Newfoundland Power that will help inform the business case for AMI technology, particularly rate design, load research, and the study by the Posterity Group. The Board does not believe that an oral hearing on AMI technology in this Application would be of any assistance for the Board in understanding the issues to be decided in this proceeding.

Issue 8 - Use of Historical Averages for Budget Estimation

The Consumer Advocate submitted that based on the jurisdictional scan provided by Newfoundland Power both Nova Scotia Power and Maritime Electric use historical averages for budget estimation with annual inflation. The Consumer Advocate submitted that Newfoundland Power should be required to explain why a similar approach is not appropriate given its very large proposed budget increases in 2025 and beyond and noted that Newfoundland Power’s capital spending would be substantially reduced if capped at the previous three or five - year average of capital spending.

Newfoundland Power does not agree and submitted that its use of historical averages was interrogated during the review of its 2024 Capital Budget Application. As required by Order No. P.U. 2(2024), Newfoundland Power filed a report on its use of historical averages as part of the current Application.⁸ Newfoundland Power submitted that actual expenditures are driven by the actual amount of work required in the budget year and the Consumer Advocate’s assertion that capital spending would be substantially reduced if it were capped at the previous three or five - year average is without merit as its longstanding budgeting methodology ensures that variations

⁸ Newfoundland Power’s 2025 Capital Budget Application, Use of Historical Averages for Budget Estimations.

in year-over-year expenditures will be factored into the budget for the upcoming year. Newfoundland Power submitted that oral testimony is not necessary to expand on the current record and would not be in the interest of regulatory efficiency.

The Board notes, as required, Newfoundland Power filed a report on the use of historical averages and further information has been provided through the written hearing process. The Board recognizes that historical averages are commonly used by Canadian utilities to estimate capital projects and change each year based on actual expenditures. While the amount of proposed capital expenditures based on historical averages is significant there is oversight and review through the information provided in this process as well as ongoing regulatory oversight associated with subsequent reporting requirements. The Board is satisfied that the written record includes comprehensive evidence with respect to the use of historical averages and that an oral hearing would not provide any further assistance in relation to this issue.

Issue 9 - Port Union Building Replacement

The Consumer Advocate submitted that the cost to replace the Port Union Building is estimated at about \$1.3 million, whereas a typical house price in Port Union is under \$200,000. The Consumer Advocate submitted that Newfoundland Power did not know how much it would cost to build a single-family home of comparable size in Port Union and stated Newfoundland Power should be required to explain why sanity checks on the proposed expenditures to replace the Port Union building are not necessary.

Newfoundland Power does not agree and submitted that the replacement of the Port Union Building is not comparable to the construction of a residential single-family home. Newfoundland Power submitted that the information filed as part of the Application provides an assessment of the alternatives, which determined that replacing the Port Union Building as proposed is the least-cost option. Newfoundland Power submitted that an oral hearing on this matter is not required as no additional relevant information would be forthcoming through oral testimony.

The Board notes the Port Union Building is described as Newfoundland Power's centre of operations for the Bonavista area, providing service to 5,903 customers and support for nine employees. The Board notes that Newfoundland Power has explained its rationale for the proposed expenditure, including an assessment of alternatives. The Board does not believe an oral hearing would provide any further information that would be of assistance for the understanding of the issues to be decided in this matter.

Issue 11 - Capital Budget Envelopes

The Consumer Advocate submitted that Newfoundland Power should be required to explain why capital budget envelopes, as referenced by the 2020 Midgard Consulting Report ("Midgard Report"), are inappropriate.

Newfoundland Power does not agree and submitted that the issue of capital budget envelopes was canvassed by the Consumer Advocate in both rounds of requests for information, and is part of a separate ongoing Board process. Newfoundland Power submitted that its position on the use of capital budget envelopes is unchanged, the record relating to capital budget envelopes is comprehensive, and no additional relevant evidence would be forthcoming through oral testimony. Therefore, an oral hearing on this matter is not required.

The Board notes that the use of capital budget envelopes is being considered as part of its Capital Budget Guidelines Review. The Board does not believe that it is appropriate to address potential changes to the Guidelines in the Application as the issue should continue to be addressed in the established process. The Board notes that Newfoundland Power has replied to RFIs from the Consumer Advocate on the use of a budget envelope and does not believe that an oral hearing with cross-examination on this issue would be of assistance in understanding the issues to be decided in this proceeding.

Issue 12 - Fortis Influence

The Consumer Advocate submitted that Newfoundland Power ought to explain whether Fortis Inc.'s ("Fortis") declared capital budget policy shapes Newfoundland Power's capital budget application. The Consumer Advocate submitted that a cross examination of Newfoundland Power executives would better inform the Board and ratepayers on this issue.

Newfoundland Power does not agree and submitted that capital planning at Newfoundland Power is not influenced by Fortis and Fortis was not involved in the development of the 2025 Capital Budget. Newfoundland Power submitted that oral cross-examination of Newfoundland Power staff will have limited effectiveness as Newfoundland Power is not involved in the calculations of Fortis' rate base nor the preparation of Fortis' growth forecasts, and is unable to provide details on how Fortis uses the information in Newfoundland Power's capital plan.

The Board notes that this issue has been raised by the Consumer Advocate in several of Newfoundland Power's recent capital budget applications. As stated in the Board's response to the Consumer Advocate's request for an oral hearing in Newfoundland Power's 2024 Capital Budget Application, the Board has not accepted the Consumer Advocate's suggestion that Fortis is involved in Newfoundland Power's capital planning and that statements by Fortis demonstrate that Newfoundland Power has a preference for alternatives with high levels of capital investment. The Board does not believe that oral cross-examination concerning Fortis' role in Newfoundland Power's 2025 Capital Budget would be of any assistance in understanding the issues to be decided in this proceeding.

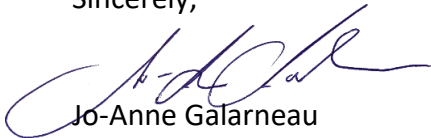
Conclusion

The Board has considered the Consumer Advocate's request for an oral hearing in Newfoundland Power's 2025 Capital Budget Application. The Board has determined that the process has allowed for a full and effective review of the proposals, as well as for the process to be open and

transparent to both the parties and the public in general. The Board notes that several issues raised by the Consumer Advocate were examined during Newfoundland Power's GRA, for which an order is pending. Certain of the other issues may be addressed through other Board processes such as the Resource and Reliability Adequacy Review or the Capital Budget Guidelines Review. There is still an opportunity for the parties to make written submissions as to whether the information that has been provided through the written process supports approval of the proposals. The Board must ensure its processes provide for cost effective regulation and allow for timely determinations and is satisfied that an oral hearing is not necessary to address the issues identified by the Consumer Advocate.

If you have any questions, please do not hesitate to contact the Board's Legal Counsel, Ms. Katie Philpott, by email, kphilpott@pub.nl.ca or telephone (709) 726-3039.

Sincerely,



Jo-Anne Galarneau
Executive Director and Board Secretary

JO/cj

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