August 8, 2024

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

Attention: Jo-Anne Galarneau
Executive Director and Board Secretary

Dear Ms. Galarneau:

Re: Newfoundland Power's 2025/2026 General Rate Application – Final Written Submissions

Please find enclosed the original and nine copies of Newfoundland Power's Final Written Submissions regarding the above-noted application.

If you have any questions, please contact the undersigned.

Yours truly,

Lindsay Hollett
Senior Legal Counsel &
Assistant Corporate Secretary

Enclosures

c. Shirley Walsh
Newfoundland and Labrador Hydro

Steven Stewart
International Brotherhood of Electrical
Workers, Local 1620

Dennis Browne, K.C.
Browne Fitzgerald Morgan & Avis

Newfoundland Power
2025/2026 General Rate Application:
Final Submissions

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DEFINED TERMS

Term	**Reference**
AMI	Advanced Metering Infrastructure
Application	Newfoundland Power's 2025/2026 General Rate Application to the Board, filed December 12, 2023
AUC	Alberta Utilities Commission
BCUC	British Columbia Utilities Commission
Board	Board of Commissioners of Public Utilities of Newfoundland and Labrador
Brattle	The Brattle Group
Brattle Deferral Account Report	Brattle, Review of Newfoundland Power's Deferral Accounts, prepared by Philip Q. Hanser and Adam Wyonzek, April 24, 2024
Brattle Load Forecasting Report	Brattle, Review of Newfoundland Power's Load Forecasting Methodology, prepared by Sanem Sergici, Sai Shetty and Philip Hanser, April 17, 2024
CAPM	Capital Asset Pricing Model
CDM	Conservation and Demand Management
CED Forecast	Customer, Energy and Demand Forecast
Company Evidence	Newfoundland Power's Evidence, filed December 12, 2023
Company Rebuttal	Newfoundland Power's Rebuttal Evidence, filed May 28, 2024
Concentric	Concentric Energy Advisors, Inc., cost of capital expert witnesses of Newfoundland Power
Concentric Evidence	2025/2026 General Rate Application, Volume 2, Section B: Expert Evidence: Concentric, Cost of Capital, November 7, 2023
Concentric Rebuttal	Concentric, Prepared Rebuttal Testimony: James M. Coyne and John P. Trogonoski, May 28, 2024

Consumer Advocate's Submission	Newfoundland Power Inc. – 2025-2026 General Rate Application, Submission of the Consumer Advocate, July 31, 2024
CPI	Consumer Price Index
DCF	Discounted Cash Flow Model
DMI Account	Demand Management Incentive Account
Dr. Booth	Dr. Laurence D. Booth, cost of capital expert witness of the Consumer Advocate
Booth Evidence	Fair Return and Capital Structure for Newfoundland Power, Evidence of Laurence D. Booth, April 2024
EPCA	*Electrical Power Control Act, 1994*, SNL 1994, c. E-5.1
ESCV	Energy Supply Cost Variance
Framework	Wholesale Rate Revision Framework, Schedule A to the Wholesale Rate Settlement Agreement
FortisBC	FortisBC Inc.
GDP Deflator	Gross Domestic Product Deflator for Canada
GRA	General Rate Application
Grant Thornton	Grant Thornton LLP
Grant Thornton Report	Grant Thornton, Newfoundland Power Inc. - 2025/2026 General Rate Application, April 24, 2024
Grant Thornton Supplemental Report	Grant Thornton, Newfoundland Power Inc. - 2025/2026 General Rate Application, Supplemental Report, May 1, 2024
Holyrood	Holyrood Thermal Generating Station
Hydro	Newfoundland and Labrador Hydro
Hydro's Submission	Newfoundland and Labrador Hydro Written Submission, July 31, 2024
IBEW	International Brotherhood of Electrical Workers, Local 1620

IFRS	International Financial Reporting Standards
IFRS Cost Deferral Account	An account to provide for the deferred recovery of actual costs incurred associated with the Company's conversion to IFRS
IIC Group	Island Industrial Customer Group (Corner Brook Pulp and Paper Limited, Braya Renewable Fuels (Newfoundland) LP and Vale Newfoundland and Labrador Limited)
IRAC	Island Regulatory Appeals Commission
KKR	KKR & Co. Ltd.
LIL	Labrador-Island Link
Moody's	Moody's Investors Service
MRP	Market Risk Premium
Newfoundland Power or the Company	Newfoundland Power Inc.
Rate Mitigation Plan	The Government of Newfoundland and Labrador's rate mitigation plan announced on May 16, 2024
ROE	Return on Equity
RSA	Rate Stabilization Account
Settlement Agreement	Settlement Agreement dated June 4, 2024, among the Company, the Consumer Advocate, Hydro, IBEW and Board hearing counsel. Filed as Consent #1
Stated Case	*Section 101 of the Public Utilities Act (Newfoundland) (Re)*, [1998] 164 Nfld & PEIR 60 (NLCA)
U.S.	United States of America
Wholesale Rate Settlement Agreement	Settlement Agreement dated June 12, 2024, among the Company, the Consumer Advocate and Hydro, regarding the wholesale rate charged by Hydro to the Company. Filed as Information #2

RESPONSES TO REQUESTS FOR INFORMATION

Responses to Requests for Information are simply referred to by the number of the Request for Information. For example, the response to Request for Information PUB-NP-001 would be referred to as PUB-NP-001.

ORAL TESTIMONY

References to oral testimony are referred to by the name of the witness, the date of the testimony, and the transcript page and line numbers. For example, a reference to oral evidence of Mr. Gary Murray would be referred to as Mr. Murray Transcript, June ●, 2024, page ●, line ●.

CONSENTS, EXHIBITS, UNDERTAKINGS AND INFORMATION ITEMS

References to undertakings are referred to as "U" and their number. For example, U-01.

References to consents are referred to as "Consent #" and their number. For example, Consent #1.

References to exhibits are referred to as "Exhibit" and their number. For example, Exhibit 1.

References to information items are referred to as "Information #" and their number. For example, Information #1.

SECTION 1: BACKGROUND

1.1 PROCEDURAL BACKGROUND

This volume contains the final written submissions of Newfoundland Power in support of its Application to establish 2025/2026 customer rates, as well as the Company's written submissions in reply to the final written submissions of the Consumer Advocate and Hydro. The IBEW did not provide final written submissions on the Application.

In Order No. P.U. 3 (2022), Newfoundland Power was directed by the Board to file its next GRA no later than June 1, 2024. Pursuant to this order, the Company filed the Application to establish its 2025/2026 customer rates on December 12, 2023.

Following notice of the Application, the Board issued Order No. P.U. 5 (2024) on February 5, 2024, which set out the schedule of dates and procedures for the hearing of the Application. This order established a detailed schedule providing for: (i) review of the Application by the Board's financial consultant, Grant Thornton; (ii) written interrogation of the Application by intervenors; (iii) filing of evidence by intervenors; (iv) Board facilitated negotiations; and (v) an oral hearing, all in accordance with established Board practice.

As a result of Board facilitated negotiations, certain matters in relation to the Application were settled on June 4, 2024. The Settlement Agreement is detailed in section 2.2 and Appendix A. An oral hearing was held beginning on June 13, 2024 and concluding on July 9, 2024.

1.2 EVIDENCE

The Board is required to determine issues on the basis of the evidence before it. The primary evidence on the Application includes: (i) Newfoundland Power's two-volume filing, including Company Evidence, Exhibits and Supporting Materials, and Expert Evidence and Studies; (ii) Expert Evidence on the cost of capital filed by the Consumer Advocate; (iii) Expert Evidence of C. Douglas Bowman in respect of various matters filed by the Consumer Advocate; (iv) Expert Evidence on executive compensation filed by the Company; (v) Expert Evidence on Load Forecasting Methodology and Deferral Accounts filed by the Board; (vi) the responses to 632 Requests for Information; and (vii) oral testimony of Company management and expert witnesses, including responses to 11 undertakings.

The Settlement Agreement was filed by way of consent. Additional materials were filed by parties as information items to assist in examination and cross-examination of witnesses, but not necessarily as proof of the contents of those documents.

The Application was reviewed by Grant Thornton, the Board's financial consultant. The Grant Thornton Report and the Grant Thornton Supplemental Report contain the findings of Grant Thornton's review and form a part of the evidence before the Board. Grant Thornton's review did not raise any material issues regarding the reasonable accuracy of financial or operational data submitted to the Board by Newfoundland Power.

The procedural history of the Application has produced an evidentiary record concerning Company operations and finance which can confidently be relied upon by the Board.

1.3 APPLICATION CONTEXT

Significant changes since Newfoundland Power's last GRA in 2021 provide essential context for this Application.

The current landscape within which the Company is operating – including supply chain issues, higher cost of materials, increased inflation and elevated interest rates – has resulted in increased costs being incurred by Newfoundland Power in the provision of electricity service to customers since 2021.

President and CEO, Mr. Gary Murray, spoke to global factors that have impacted Newfoundland Power's operations in recent years:

> *"Global events with the pandemic and the war in Ukraine have had two significant impacts on our operations. The first is the effect on the supply chains and the cost of materials. In my view supply chains continue to be stressed post-COVID. We see longer lead times for procuring parts and equipment for everything from line trucks, to power transformers, to meters. The company has had to adjust our approach to capital planning to account for longer lead times on equipment. One way we are doing this is by utilizing more multi-year projects.*
>
> *The second significant impact is on inflation. In June 2021 the rate of inflation was expected to be 5.8 percent from 2020 to 2023. Actually (sic) increases were significantly higher at approximately 17 percent. Inflation turned out to be 11.2 percent higher than forecasted.*
>
> *We've also seen significant impacts of inflation on the cost of equipment. For example, since 2020 the cost of a substation/power transformer has nearly doubled, and the cost of a pole mounted transformer has increased by nearly 60 percent."*[1]

Vice President, Finance and Chief Financial Officer, Ms. Paige London, also spoke to the global factors that have impacted the Company since its last GRA:

[1] Mr. Murray Transcript, June 13, 2024, page 47, line 3 to page 48, line 6.

> *"Since our last general rate application, a number of global factors have impacted the company that were not anticipated at that time. These include significant increases in interest rates, inflation at levels not experienced in a number of decades, and provincial population growth, mainly due to immigration. Each of these factors impacted our financial performance in 2023."*[2]

Supply reliability concerns have come squarely into focus since the Company's last GRA. In 2022, Hydro released an update to its *Reliability and Resource Adequacy Study*. In that update, Hydro indicated lower reliability assumptions for the LIL than were originally expected, changing the outlook of Hydro supply reliability on the island. In addition to lower reliability assumptions, the LIL has seen damage over the last number of years due to storm conditions and component failures. As a result, Hydro has identified the need to continue relying on Holyrood until at least 2030.[3] These reliability concerns highlight the issue of future adequacy of generation on the island, particularly as Newfoundland Power relies on Hydro as its sole supplier for 93% of the electricity it provides to its customers.

Newfoundland Power's Vice President, Engineering and Energy Supply, Mr. Byron Chubbs, commented on changing risks to the electricity system and the circumstances surrounding the Company's approach to maintaining levels of system reliability:

> *"We're seeing a number of risks to the electricity system that underscore the importance of maintaining current levels of reliability for our customers. These risks include a wave of aging assets that are nearing the end of their life, more frequent and extreme weather events and the reliability of power supply to the island due to uncertainty with the Labrador Island Link. With all these risks materializing at the same time, we're also seeing more customers converting from oil to electric heat, and driving electric vehicles and working from home. Our customers are relying more than ever on the reliability of our electricity system."*[4]

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2 Ms. London Transcript, June 14, 2024, page 161, lines 5-14.
3 Mr. Murray Transcript, June 13, 2024, page 49, line 18 to page 50, line 6.
4 Mr. Chubbs Transcript, June 26, 2024, page 14, line 20 to page 15, line 10.

Since 2021, the Muskrat Falls Project has been commissioned and the Provincial Rate Mitigation Plan has been announced. However, there is still uncertainty with respect to cost recovery beyond 2030, and future costs to be incurred for backup generation to address reliability concerns with the LIL.

Ms. London described the risks associated with Muskrat Falls as follows:

> *"The Muskrat Falls Project affects both the cost and reliability of service provided to Newfoundland Power's customers. The cost of Muskrat Falls is substantial. It represents almost four times the combined book value of the current utility investment of Newfoundland Power and Hydro. As part of the Provincial Rate Mitigation Plan, customer rates will increase by 2.25 percent each year, beginning on July 1st this year until and including 2030. While this provides certainty on customer rate impacts in the near term, we don't know what will happen beyond 2030. Further, this total 15.75 percent increase in customer rates related to Muskrat Falls will not recover any additional spending required to address reliability concerns. Customers will experience sustained upward pressure on electricity cost going forward."*[5]

Mr. James Coyne of Concentric Energy Advisors described concerns with the provincial rate mitigation plan from an investor's perspective:

> *"…within those six years, you still know that you have that cliff out there and we look at this from an investor's perspective and if you're an investor looking at a utility such as Newfoundland Power, you would have to say this is an unaddressed problem at this point in time beyond that period and these are investments that are made for 30, 40, 50 years. So, you need to consider both those long-term consequences as well as the short term. We have not made any adjustment to our ROE analysis based on this problem, but it's unique."*[6]

The current conditions facing Newfoundland Power are more challenging than those existing in in 2021. In addition, the provincial economic outlook remains weak in comparison to the rest of Canada.

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[5] Ms. London Transcript, June 14, 2024, page 165, line 16 to page 166, line 10.
[6] Concentric Transcript, June 18, 2024, page 59, line 22 to page 60, line 10.

When asked to elaborate on the Company's business risk, Ms. London made the following observation:

> *"The economic outlook for the province can be seen through key indicators, such as employment, housing starts and household disposable income, and each of these indicators is forecast to lag behind the rest of Canada in the medium term."*[7]

Mr. Coyne summarized Newfoundland Power's risk relative to comparable Canadian and U.S. utilities as follows:

> *"…we performed a risk analysis of Newfoundland Power relative to both its Canadian and US electric utility peers. We found that the business risk of Newfoundland Power is currently higher than that of other Canadian investor-owned utilities. Contributing factors to this risk assessment include Newfoundland Power's small size, dependence on one supplier, the cost of the Muskrat Falls project, weaker economic and demographic trends in the province as compared to the remainder of Canada, and weather and storm related risk. In addition, reliability issues around the transmission system, the Labrador Island Link, remain a concern. Newfoundland Power's business and financial risk are also somewhat higher than the operating companies in the US electric utility proxy group."*[8]

In Newfoundland Power's view, the current realities of the provincial electrical sector should inform the Board in its decision making on the Application.

The Company also recognizes that these are challenging times for our customers and that there are customer rate pressures associated with the July 1, 2025 customer rate change. As explained by Mr. Murray:

> *"We consider cost in everything we do. We know that these are challenging times for our customers. As I've said, we are experiencing inflation that is higher than it has been in decades, and we know that customers are experiencing that pressure as well. In terms of cost management, Newfoundland Power seeks to achieve cost control and operation*

7 Ms. London Transcript, June 14, 2024, page 165, lines 4-9.
8 Concentric Transcript, June 18, 2024, page 10, lines 2-20.

> *efficiencies that are sustainable over the long-term. This contributes to our ability to provide least cost reliability service to our customers."*[9]

As provided for in the Wholesale Rate Revision Framework, Newfoundland Power is supportive of reasonable customer rate smoothing measures over the 2025 to 2027 timeframe and will work with the parties on this matter.[10] The Company also acknowledges the Board's direction in Order No. P.U. 16 (2024) which, in the context of customer rate smoothing, outlines the importance that the Company is afforded the ability to recover its reasonable and prudent costs, which includes a just and reasonable return, as required by the *Public Utilities Act*:[11]

> *"When Newfoundland Power files an application for July 1, 2025 rates it should address issues related to rate shock, rate stability and the timely recovery of prudent costs in the context of the information on available at the time regarding the rate increases which are expected over the period 2025 to 2027."* [12]

[9] Mr. Murray Transcript, June 13, 2024, page 51, lines 1-12.
[10] Wholesale Rate Revision Framework, page 3.
[11] Section 80 of the *Public Utilities Act*.
[12] Order No. P.U. 16 (2024), page 6.

SECTION 2: ISSUES

2.1 ISSUES

This Application seeks an average increase in customer rates of approximately 5.5%, effective July 1, 2025 to recover its 2025 and 2026 revenue requirements. Of this 5.5%, approximately 3.9% relates to the continued investment in the electrical system, increased operating costs and the effects of amortizations. The remaining 1.6% relates to the Company's proposal for a fair ROE for Newfoundland Power in 2025 and 2026 of 9.85% on a common equity ratio of 45%.

Newfoundland Power's cost of capital and operating costs were central issues interrogated throughout the Application process, including during the oral hearing. Section 3 details the Company's submission on these issues, along with other rate base and revenue requirement items that were not settled by the parties prior to the commencement of the oral hearing.

2.2 SETTLED ISSUES

Prior to the commencement of the oral hearing, the Company, the Consumer Advocate, Hydro and IBEW, with participation by Board hearing counsel, engaged in negotiations. The negotiations resulted in two agreements: the Settlement Agreement and the Wholesale Rate Settlement Agreement.

2.2.1 The Settlement Agreement

On June 4, 2024, a Settlement Agreement was reached between Newfoundland Power, the Consumer Advocate, Hydro, the IBEW, and Board hearing counsel. In the Settlement Agreement, the parties reached agreement on the following issues, all as more particularly described in the Settlement Agreement:

(i) Continued suspension of the automatic adjustment formula;

(ii) Amendments to Clause II.9 of the Rate Stabilization Clause to allow for recovery of costs charged annually to the Electrification Cost Deferral Account;

(iii) Amendments to the DMI Account effective January 1, 2025, to establish a threshold of ±$500,000;

(iv) The preparation of a report on the Company's supply cost mechanisms;

(v) Amendments to the definition of the Pension Capitalization Cost Deferral Account effective January 1, 2025, to cease charges to the account effective December 31, 2024;

(vi) The creation of the IFRS Cost Deferral Account and the associated decrease to the 2025 and 2026 revenue requirement;

(vii) The amortization of Board and Consumer Advocate hearing costs relating to the Application over a 30-month period commencing July 1, 2025;

(viii) The calculation of depreciation expense;

(ix) The 2025 and 2026 CED Forecast for use in the Application; and

(x) A review of the Company's CED Forecast methodology.

Appendix A provides a summary, by issue, of each of the settled issues agreed in the Settlement Agreement and the evidence which supports the Board's approval of each issue.

Settlement of issues before the Board is consistent with the least cost principle and, therefore, in the public interest. The resolution of each issue in the Settlement Agreement is supported on the evidentiary record before the Board on the Application. The Board should approve all matters settled by way of the Settlement Agreement.

2.2.2 The Wholesale Rate Settlement Agreement

On June 12, 2024, the Wholesale Rate Settlement Agreement was reached between Newfoundland Power, the Consumer Advocate and Hydro. In the Wholesale Rate Settlement Agreement, the parties reached the following agreement, all as more particularly described in the Wholesale Rate Settlement Agreement:

(i) It is desirable to establish a new wholesale rate, as described in the framework attached to the Wholesale Rate Settlement Agreement;

(ii) Hydro and the Company will each file an application with the Board on or about September 15, 2024 for approval of a new wholesale rate; and

(iii) The Company should rebase its power supply costs in connection with its application on the wholesale rate.

Appendix B provides a summary of the settled issues agreed in the Wholesale Rate Settlement Agreement and the evidence which supports the Board's approval. The resolution of the issues outlined in the Wholesale Rate Settlement Agreement is supported by the evidentiary record before the Board on the Application. The Board should approve all matters settled by way of the Wholesale Rate Settlement Agreement.

SECTION 3: NEWFOUNDLAND POWER'S SUBMISSIONS

3.1 COST OF CAPITAL

3.1.1 Background

Two key components of a utility's cost of capital considered by regulators for rate-setting purposes are its ROE and its capital structure. While it is acknowledged that a fair ROE cannot be determined independent of a utility's capital structure, the two components are informed largely by different considerations. The Board is guided by the fair return standard in determining an appropriate ROE and capital structure for Newfoundland Power.

Newfoundland Power proposes that its longstanding equity ratio in its capital structure of 45% be maintained. The Company further proposes an increase in its regulated ROE from 8.5% to 9.85%. These measures will satisfy the fair return standard and the requirements of the provincial regulatory framework.

The Consumer Advocate's expert, Dr. Booth, proposes that the Board reduce Newfoundland Power's equity ratio to 40% and decrease its authorized ROE to 7.7%. If adopted by the Board, these measures will increase the Company's financial risks and jeopardize its credit ratings. These proposals are not consistent with the fair return standard or the requirements of the provincial regulatory framework.

3.1.2 Regulatory Framework and History

3.1.2.1 Regulatory Framework

The legislative foundation of the regulatory framework governing public utilities in Newfoundland and Labrador is in the form of the *Public Utilities Act* and the EPCA.

Section 80(1) of the *Public Utilities Act* provides that "*A public utility is entitled to earn annually a just and reasonable return as determined by the board on the rate base as fixed and determined by the board*."

Section 3 of the EPCA outlines the power policy of the province. Key features of this policy are reasonable customer rates and efficient utility operations. Section 3 of the EPCA specifically requires the Board to set customer rates that "…*provide sufficient revenue to the producer or retailer of the power to enable it to earn a just and reasonable return as construed under the Public Utilities Act so that it is able to achieve and maintain a sound credit rating in the financial markets of the world*."

Insofar as it relates to earning a return, the legislative framework in Newfoundland and Labrador is substantially similar to that in other North American jurisdictions.[13] In determining what constitutes a fair return, the Board is obligated by section 4 of the EPCA to apply tests that are consistent with generally accepted sound public utility practice. In that context, the Board has broad discretion in its choice of methodologies to determine a fair return. The Court of Appeal of Newfoundland and Labrador expressed the law as follows:

> *"The Board therefore has a broad discretion to adopt appropriate methodologies for the calculation of allowable rates of return. So long as the methodologies chosen are not inconsistent with generally accepted sound public utility practice and the purposes and policies of the Act and can be supported by the available opinion evidence, the determination of what constitutes a just and reasonable return in a given case will generally be within the province of the Board and will not normally be interfered with. The jurisdiction of the Board must therefore be defined to enable that process to occur."*[14]

[13] The Stated Case, paragraph 24.
[14] *Ibid*., paragraph 29.

The prominence of risk in the context of the determination of a fair return has also been recognized by the Newfoundland and Labrador Court of Appeal:

> *"… because the setting of the rate of return is based on projections, one cannot be sure that the rate of return will be achieved in practice. Although the utility is 'entitled' by s. 80 of the Act to have the Board determine a just and reasonable rate of return based on appropriate predictive techniques and methodologies, it is not 'entitled', in the sense of being guaranteed, to that rate of return. The utility therefore takes the risk that its chosen management techniques and the future economic climate may not yield its expected success. Although some of the activities of the utility are regulated within the framework of the statutory objectives, the utility nevertheless remains subject to business risks and the effects of management decisions. To that extent, the financial risks associated with the operation of the utility, just as in the case of any private business, are to be born by the investors in the enterprise, not the consumer of the service."*[15]

3.1.2.2 Regulatory Practice

A Fair Return

Through precedents set by the Board, the principles informing the determination of a fair return have been long established:

> *"In addition to the statutory principles which guide the Board there are a number of well accepted principles of public utility regulation which are used to estimate the required rate of return. These principles have been endorsed not only by regulators but also by appellate courts in both Canada and the United States. A public utility must be able to assure financial integrity, so that it can maintain a sound credit rating and be able to attract additional capital when required. In order to maintain access to capital financing it must achieve earnings comparable to those of other companies with similar risks. The rate of return on capital must be high enough to attract capital but electric power should be delivered to customers at the lowest possible costs consistent with reliable service. These principles apply to all forms of capital, whether in the form of debt or equity."*[16]

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[15] *Ibid.*, paragraph 31.
[16] Order No. P.U. 16 (1998-99), page 9.

The attributes of a fair utility return are generally accepted throughout North America and have been repeatedly and consistently expressed by the Board as follows:

> *"Regulated utilities are given the opportunity to earn a fair rate of return. To be considered fair, the return must be:*
> - *Commensurate with return on investments of similar risk;*
> - *Sufficient to assure financial integrity; and*
> - *Sufficient to attract necessary capital*
>
> *The fair return principle is consistent with both Section 80(1) of the Act and Section 3(a)(iii) of the EPCA."*[17]

Capital Structure

The Board, citing the Newfoundland and Labrador Court of Appeal, has recognized the principle that a company's capital structure cannot be quickly or easily changed.[18] The Board has consistently accepted that a 45% equity ratio is appropriate for Newfoundland Power.[19] The reasoning behind the Board's determination has also been consistent. In Order No. P.U. 19 (2003), the Board observed:

> *"The capital structure of NP has been maintained through the ongoing decisions of the Board as contained in its respective Orders and also NP's actions in managing the level of common equity accordingly. Generally in the past it has been determined by the Board that a strong equity component is needed to mitigate the impact of NP's relatively small size and low growth potential."*[20]

The Board's observations in 2003 were consistent with its observations in 2016:

> *"Newfoundland Power's small size relative to its peers and its low growth potential have been identified by the Board in the past as supporting a 45%*

[17] Order No. P.U. 32 (2007), Appendix A, page 6. See also Order No. P.U. 19 (2003), Order No. P.U. 43 (2009), Order No. P.U. 13 (2013), and Order No. P.U. 18 (2016).
[18] Order No. P.U. 18 (2016), page 24, line 40 to page 25, line 3. See also PUB-NP-066, CA-NP-072, and the Stated Case, paragraphs 135 and 136.
[19] Company Evidence, page 3-20.
[20] Order No. P.U. 19 (2003), page 45.

> *common equity ratio. These factors have been acknowledged by the experts in this proceeding as still present."*[21]

Further, Newfoundland Power's 45% equity ratio has historically been viewed by credit rating agencies as a credit strength.[22] This has been previously cited by the Board as supporting the continuation of Newfoundland Power's capital structure.[23]

2016/2017 GRA – Board Findings

In Newfoundland Power's 2019/2020 and 2022/2023 GRAs, the Board accepted the recommendations of settlement agreements to establish the Company's cost of capital. The Board last issued a fulsome determination on a fair return for Newfoundland Power as part of its 2016/2017 GRA when the Board maintained the Company's equity ratio at 45%.

In addition to the Company's longstanding risk factors, the Board further identified risks associated with electricity supply, the province's economic outlook, and concerns over how credit markets would view a change in capital structure as additional reasons for requiring a "*conservative and stable regulatory approach*":

> *"In the circumstances the Board does not believe it is appropriate to deem a reduced common equity ratio for Newfoundland Power given the uncertainty associated with Muskrat Falls and the economic outlook for the province and also in light of the concerns set out by Newfoundland Power in relation to the issuance or deeming of preferred shares. The Board is concerned about the impact of such a change on Newfoundland Power's credit metrics and how this would be viewed by the markets. The Board believes that the circumstances require a conservative and stable regulatory approach and therefore Newfoundland Power's deemed common equity ratio will not be lowered at this time."*[24]

[21] Order No. P.U. 18 (2016), page 24.
[22] Moody's Investors Service, Credit Opinion, April 30, 2024, pages 1 and 4. See also Company Evidence, Volume 1, Exhibit 4 (1st Revision): Morningstar DBRS, Rating Report Newfoundland Power Inc., October 13, 2023, pages 1-2.
[23] Order No. P.U. 3 (2022), page 5, lines 14-16.
[24] Order No. P.U. 18 (2016), page 25.

With regard to determining an appropriate ROE in 2016, the Board relied on the following observations:

- The Board gave primary consideration to the CAPM estimates of the cost of capital evidence but also looked to other information, including the results of other models, in informing its judgment as to the fair return.[25]
- The Board accepted the use of data relating to U.S. proxy utilities, but only with adjustment.[26]
- The Board noted that, in 2016, the forecast long-term Canada bond yields were not materially different than in 2013 and that, at the time, the cost of capital experts agreed that market conditions had not changed significantly since the Board's previous analysis in 2013.[27]
- The Board decreased Newfoundland Power's authorized ROE from 8.8% to 8.5% partly due to the observation that "*approved returns in other Canadian jurisdictions generally seem to be lower today than they were in 2013.*"[28]

3.1.2.3 Submission on Regulatory Framework

An appropriate cost of capital is one that is commensurate with the return that an equity investor would receive on an investment of similar risk. Investors take a long-term view of risk.[29] As a result, a utility's ability to attract capital is contingent on its long-term risk profile. The regulatory framework and practice, therefore, require an assessment of a utility's ability to attract

[25] *Ibid*., pages 27-40.
[26] *Ibid*., page 29.
[27] *Ibid*., page 38, lines 16-18.
[28] *Ibid*., page 40, lines 2-4.
[29] Concentric Rebuttal, page 44, lines 11-14. See also Concentric Transcript, June 18, 2024, page 59, line 22 to page 60, line 7, and Booth Transcript, June 20, 2024, page 98, lines 3-4.

the capital necessary to serve its customers. The determination of the regulated cost of capital also requires an assessment of factors that could affect a utility's creditworthiness.

In the context of this Application, an assessment of the Company's business and financial risks is required.[30] This includes an appraisal of any changes in Newfoundland Power's risks and in the capital markets in which the Company must raise the capital necessary to serve its customers.

The evidence considered by the Board in Order No. P.U. 18 (2016) when determining the ROE during Newfoundland Power's 2016/2017 GRA is also relevant in the Board's determination of a fair ROE in this Application. In addition to changes in market conditions since the Company's last GRA in 2021, the Board must assess the evidence supporting the use of U.S. data without adjustment and consider changes in approved returns in other Canadian jurisdictions since 2021.

3.1.3 Market Conditions and Risk

3.1.3.1 Market Conditions

Newfoundland Power's previous GRA was filed in May 2021. Since that time, there has been a fundamental shift in the economy and capital markets.[31]

The evidence of Concentric is that interest rates on Canadian government and utility bonds are substantially higher than they were in 2021, or in 2015 when they were analyzed for the Company's 2016/2017 GRA.[32]

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[30] Order No. P.U. 18 (2016), page 12, lines 35-36.
[31] Concentric Evidence, page 9, lines 17-18.
[32] Concentric Rebuttal, page 14, lines 10-14.

Figure 3 of Concentric's Rebuttal summarizes changes in key interest rates and inflation, as follows:

Comparison of Key Interest Rates and Inflation Data[33]

Indicator	**August 2015**	**March 2021**	**August 2023**	**April 2024**
Bank of Canada Overnight Rate	0.50%	0.25%	5.00%	5.00%
10-year Government of Canada bond	1.58%	1.50%	3.65%	3.70%
30-year Government of Canada bond	2.24%	1.94%	3.50%	3.60%
A-rated Canadian utility bond	3.89%	3.24%	4.99%	4.96%
Consumer Price Inflation – Canada	1.3%	2.2%	4.0%	2.9%

Ten-year Canadian government bond yields have increased by 212 basis points since August 2015 and by 220 basis points since March 2021, while 30-year Canadian government bond yields have increased by 136 basis points since August 2015 and 166 basis points since March 2021. A-rated Canadian utility bond yields have increased by 107 basis points since August 2015 and by 172 basis points since March 2021. Consumer prices have also risen at a much faster pace in 2023 and 2024 compared to either 2015 or 2021.

Cost of capital evidence was submitted by Dr. Booth on behalf of the Consumer Advocate. In his evidence, Dr. Booth notes the increase in bond yields since 2020 and recommends the use of a long-term Canada bond yield of 3.8% as the risk-free rate in his CAPM analysis.[34] Dr. Booth summarized changes in capital markets:

33 *Ibid*., page 15, figure 3.

34 Booth Evidence, page 28, lines 13-15, and page 31, line 5 (graph). See also Dr. Booth Transcript, June 20, 2024, page 118, line 15.

> *"So in terms of debt markets, we are in exactly the opposite position to 2016: instead of lower rates due to quatitative (sic) easing, we are into higher rates and quantitative tightening. I am, therefore, confident that the LTC yield will increase over the next 18 months…"*[35]

Similarly, with regard to equity markets as compared to 2016, Dr. Booth's evidence is that "*equity markets are roaring rather than weakening…*"[36]

Evidence also indicates that equity investors no longer perceive utilities as safe havens during periods of market distress. This is reflected in the measured value of the coefficient representing the risk of securities relative to the overall market: beta. Since January 2020, Bloomberg and Value Line betas for utility companies have increased.[37] Dr. Booth has also identified an increase in utility beta since 2016.[38]

3.1.3.2 Historical Risk Elements

Newfoundland Power's risk profile includes historical risk elements that have been previously recognized by the Board. These include the Company's relatively small size, its operating environment, service territory demographics, the provincial economy, its energy sales and its limited cost flexibility.

<u>Small Size</u>

With approximately 275,000 customers, Newfoundland Power has fewer retail customers than most investor-owned electric utilities in Canada and the operating companies in Concentric's

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35 Booth Evidence, page 24, lines 1-3, and page 23, lines 3-5.
36 *Ibid*., page 36, line 3-4.
37 Concentric Rebuttal, page 28, lines 4-11.
38 Dr. Booth Transcript, June 20, 2024, page 192, lines 15-20.

U.S. Electric utility proxy group.[39] The Company is also small compared to other Canadian investor-owned utilities and the vast majority of U.S. Electric proxy group utilities in terms of net property, plant and equipment.[40]

As a result of its small size, Newfoundland Power's long-term debt issuances are typically less than $100 million. The Company's first mortgage bonds are purchased by a small number of investors. Over the past 10 years, issuances were purchased by an average of five investors.[41]

The general capital market requirement for inclusion in widely traded bond indices is $100 million and a minimum of 10 investors. Given that Newfoundland Power's bond issuances are below both thresholds, the Company is at a disadvantage relative to its larger peers.[42] This contributes to higher interest rates on Newfoundland Power's long-term debt. The Board has long recognized that a strong equity component is required to mitigate the effect of the Company's small size on its ability to finance long-term debt.[43] Nothing has changed in this regard since previous Board findings.[44]

39 Concentric Evidence, page 61, lines 5-8.
40 *Ibid*., page 62, lines 1-4.
41 Company Evidence, page 3-36, lines 7-10.
42 Concentric Transcript, June 18, 2024, page 47, lines 19-24.
43 Order No. P.U. 18 (2016), page 24. See also Order No. P.U. 16 (1998-99), page 37 and Order No. P.U. 19 (2003), page 45.
44 Ms. London Transcript, June 17, 2024, pages 118, lines 13-24 and page 119, lines 1-8.

Operating Environment

Compared to other electric utilities, Newfoundland Power's service territory is subject to some of the most severe wind and ice conditions for populated regions of Canada. These conditions have resulted in large-scale customer outages.[45]

Significant customer outages due to severe weather are becoming more frequent in the Company's service territory. Over the last decade, major events caused outages to Newfoundland Power's customers in nine of 10 years. This compares to four years with major events over the previous decade.[46]

The Atlantic Provinces Economic Council has noted that climate change presents a challenge to system planning and operations for utilities, with an increasing need to build reliable electricity systems.[47]

Storm restoration efforts can result in relatively high costs. The impact that storm restoration efforts can have on a utility's financial position is recognized in the utility industry. As a recent example, Maritime Electric incurred approximately $35.9 million in storm restoration costs associated with Hurricane Fiona in 2022.[48] In recent years, Newfoundland Power has also identified flooding, coastal erosion and wildfires as presenting additional risks to its infrastructure and operations.[49]

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45 Company Evidence, page 3-37, lines 15-16 and page 3-38, line 1.
46 PUB-NP-070.
47 Company Evidence, page 3-38, lines 4-8.
48 PUB-NP-070.
49 Mr. Chubbs Transcript, June 27, 2024, pages 11-18.

The risks associated with major weather events in the Company's operating environment can result in unpredictability in costs. Unpredictable costs can result in volatility in earnings.[50]

<u>*Service Territory Demographics*</u>

Provincial demographics in Newfoundland and Labrador are defined by an aging population, low fertility rates and out-migration to other Canadian provinces. Newfoundland and Labrador's population is older than the Canadian population. Newfoundland and Labrador's low fertility rates combined with increasing population mortality contributes to a natural population decline. Recent immigration from persons outside Canada has helped mitigate provincial population decline in 2022 and 2023. However, Newfoundland and Labrador's demographics continue to be weaker than the rest of Canada and are forecast to remain weak over the long term.[51]

The province's population continues to become more concentrated in the province's largest urban areas, particularly the Northeast Avalon, and this trend is expected to continue.[52]

These demographic conditions can be expected to exert pressure on the provincial economy, government service delivery and Newfoundland Power's ability to recover its investment in long-life utility assets. The challenging provincial demographics continue to be a risk factor in Newfoundland Power's business risk profile.[53]

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[50] Company Evidence, page 3-39, lines 1-2.
[51] *Ibid.*, page 3-25, lines 12-16; page 3-27, lines 1-12; page 3-28, lines 21-23.
[52] *Ibid.,* page 3-28, lines 6-7 and 12.
[53] Ms. London Transcript, June 17, 2024, page 119, lines 9-24.

Provincial Economy

Newfoundland and Labrador's weak demographic outlook will be a primary contributor to slow economic growth. The province's economic growth is forecast to decelerate and average 1.0% over the next two decades – much lower than the 2.3% annual growth from 2000 to 2019.[54]

Housing starts in Newfoundland and Labrador have declined considerably since reaching a historic peak in 2012. The number of housing starts expected in the forecast period are the lowest observed by Newfoundland Power since at least 1977.[55]

The economic outlook for Newfoundland and Labrador lags behind that of Canada across virtually all key economic indicators from 2022 to 2045.[56] The weak economic outlook for Newfoundland and Labrador presents risks to the Company's ability to recover its investment in long-life utility assets and earn a fair return. There has been no significant change in this risk factor since previous Board determinations.[57]

Energy Sales

Newfoundland Power experienced declining energy sales each year from 2016 to 2021. In 2022, the Company's annual energy sales increased for the first time since 2015. The increase was attributable to higher General Service energy consumption following the COVID-19 pandemic, recent population growth and electrification trends. Newfoundland Power anticipates these trends to continue in the near term, particularly as it relates to customer electrification trends.

54 Concentric Evidence, page 63, lines 16-18.
55 Company Evidence, page 3-24, lines 3-5.
56 Concentric Evidence, page 65, figure 38.
57 Ms. London Transcript, June 17, 2024, page 120, lines 1-9.

However, higher electricity rates, coupled with medium to longer term economic and demographic trends in the province, will weigh on the Company's energy sales growth in the coming years.[58] These factors result in relatively low forecast growth in Newfoundland Power's energy sales over the forecast period. Low energy sales growth makes the Company less appealing to financial markets as compared to utilities with higher growth potential.

Limited Cost Flexibility

Newfoundland Power's operating costs are the costs over which management can exert the most direct control. However, gross operating costs comprise only 10% of the Company's overall revenue requirement during the test period.[59] Purchased power costs and fixed costs, including financing charges and depreciation costs, make up an increasing proportion of Newfoundland Power's revenues on a cents per kWh basis. For example, over the twenty-year period from 2002 to 2022, the Company's purchased power costs and fixed costs increased by 88% and 32%, respectively. By contrast, Newfoundland Power's operating costs only increased by 21% over the same period.[60]

As operating costs are reduced in overall proportion to the Company's fixed costs, Newfoundland Power has reduced flexibility to respond to unforeseen business changes, such as unexpected variances in energy sales, or unforeseen costs, such as costs associated with responding to extreme weather.

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[58] Company Evidence, page 3-29, lines 3-11. See also PUB-NP-091 and PUB-NP-097.
[59] *Ibid.*, page 2-29, lines 4-5.
[60] *Ibid.*, page 3-35, table 3-13, lines 3-10.

3.1.3.3 Power Supply Outlook

<u>*Muskrat Falls and Supply Reliability*</u>

Newfoundland Power is unique in its dependence on a sole supplier for approximately 93% of its energy requirements.[61] The Company's lack of diversification in market position was recognized by Moody's in its latest credit ratings report for Newfoundland Power.[62] The electricity supply outlook from Hydro continues to be challenged by factors associated with the Muskrat Falls Project.

The outlook for electricity supply on the Island Interconnected System changed materially in 2022, due to lower reliability assumptions for the LIL. In Hydro's October 2022 *Reliability and Resource Adequacy Study*, Hydro indicated that it will continue operating its 490 MW Holyrood Thermal Generating Station and the 50 MW Hardwoods Gas Turbine until 2030. Continuing to operate Holyrood until 2030 is expected to cost approximately $150 million annually, and total approximately $1 billion between 2024 and 2030. The reliable operation of Holyrood cannot be assured.[63]

The change in supply outlook identified in the 2022 update to Hydro's *Reliability and Resource Adequacy Study* also created significant additional cost pressures on the Island Interconnected System associated with constructing new sources of supply on the island.[64]

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[61] Company Evidence, page 1-1, lines 8-9.
[62] Moody's Investors Service, Credit Opinion, April 30, 2024, page 9, Exhibit 10, Factor 3. See also Ms. London Transcript, June 17, 2024, page 41, lines 5-17.
[63] Company Evidence, page 3-32, lines 7-16 and page 3-33, lines 1-2. See also PUB-NP-068.
[64] Company Rebuttal, page 54, lines 9-11.

The reliability of bulk electricity supply from Hydro affects the reliability experienced by Newfoundland Power's customers and has the potential to result in additional costs for the Company. Potential outages resulting from a failure on the LIL or Holyrood could also place additional strain on the distribution system if rotating power outages are required.[65]

Newfoundland Power's power supply outlook, including the Muskrat Falls Project, continued reliance on Holyrood, and the need to construct new sources of capacity, continues to be a key factor in the Company's business risk profile. This includes near-term and long-term reliability as well as cost implications.[66]

Muskrat Falls Rate Mitigation

The final cost of the Muskrat Falls Project is approximately $13.5 billion, nearly four times the book value of the province's electrical system prior to the project's commissioning.[67] The Government of Newfoundland and Labrador announced the finalization of its Rate Mitigation Plan on May 16, 2024. The Rate Mitigation Plan came into effect on August 1, 2024, and limits annual Domestic customer rate increases associated with the Muskrat Falls Project and Hydro's operations to 2.25% until 2030.[68]

The Rate Mitigation Plan confirms a period of sustained rate increases associated with Hydro's operations for a six-year period commencing in 2024. The plan does not provide any visibility

[65] PUB-NP-148.
[66] Mr. Murray Transcript, June 14, 2024, page 49, line 2 to page 51, line 8. See also Ms. London Transcript, June 14, 2024, page 166, line 11 to page 167, line 12.
[67] Company Evidence, page 1-5, lines 4-6.
[68] Company Rebuttal, page 50, lines 3-6.

into mitigation or customer rates associated with the Muskrat Falls Project or Hydro's costs beyond 2030.[69] Cost pressures flowing from Hydro's plan to construct new sources of supply on the island are expected to coincide with the conclusion of the Rate Mitigation Plan in 2030.[70]

From a cost of capital perspective, investors are primarily concerned with longer term risks that affect the ability of a company such as Newfoundland Power to recover its prudently incurred costs and to earn its authorized return.[71] Credit rating agencies have identified power supply issues as a business risk to the Company.[72] While the Rate Mitigation Plan provides a level of certainty for the next six years, it does not alleviate long-term risks that an investor in Newfoundland Power's long-term debt and common equity would consider.

3.1.3.4 Submission on Market Conditions and Risk

The evidence before the Board indicates a fundamental shift in economic and market conditions compared to those existing at the time of Newfoundland Power's last GRA. Concentric and Dr. Booth both provide evidence that interest rates, long-term Canada bond yields, and beta estimates have all increased since 2021.

Newfoundland Power's historical risk elements include its small size, harsh operating environment, service territory demographics, a relatively weak provincial economy, and the Company's low-growth potential. These risk factors are longstanding and the Company's overall exposure to them has not materially changed since 2021.[73]

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[69] *Ibid*., lines 6-9.
[70] *Ibid*., page 54, lines 9-11.
[71] Concentric Rebuttal, page 44, lines 11-14. See also Concentric Transcript, June 19, 2024, pages 132-136.
[72] Company Rebuttal, page 53, lines 11-18.
[73] PUB-NP-068.

The Muskrat Falls Project continues to pose a risk to the least-cost delivery of reliable service to customers. While the Rate Mitigation Plan provides a level of certainty on customer rates until 2030, this represents only six years out of a payback period of 50 years for Muskrat Falls costs.[74] This measure of rate certainty is offset by the high overall cost of the Muskrat Falls Project and increasing cost pressures associated with mitigating concerns related to the LIL's reliability, including the need to construct new sources of supply on the island as identified by Hydro.

Overall, Newfoundland Power's business risks in 2023 remain largely consistent with those described in 2021 during the Company's 2022/2023 GRA. Concentric considers the Company to have a higher-than-average business risk relative to its proxy groups.[75]

3.1.4 Capital Structure

The proportion of common equity in Newfoundland Power's capital structure is an issue in this Application.

The Company proposes that the Board maintain its longstanding common equity ratio of 45%. Dr. Booth proposes that the Board order a reduction in the Company's equity thickness from 45% to 40%. By Dr. Booth's own admission, his recommendations would likely result in a reduction in Newfoundland Power's credit ratings.[76] This, in turn, would negatively affect the Company's future access to capital on reasonable terms. As such, Dr. Booth's recommendations would not satisfy the fair return standard.

[74] Concentric Transcript, June 19, 2024, pages 134-136.
[75] Concentric Transcript, June 18, 2024, page 10, lines 1-25, page 11, line 1.
[76] Dr. Booth Transcript, June 20, 2024, page 132, lines 1-7.

3.1.4.1 Newfoundland Power's Existing Capital Structure

Newfoundland Power's capital structure has not changed in over two decades and has contributed to the Company's ability to continue to access capital on reasonable terms. [77]

In its determinations that a 45% common equity ratio is appropriate for Newfoundland Power, the Board has consistently found that a 45% common equity ratio is necessary to mitigate the Company's financial and business risks. The evidence on the record of this proceeding indicates that Newfoundland Power's financial and business risk profile and exposure are largely consistent with levels observed by the Board in past GRAs.

The Board has also consistently held that Newfoundland Power's 45% common equity ratio is a key credit strength of the Company. Newfoundland Power's capital structure is viewed as a key credit strength by credit rating agencies. As stated by Moody's in its Credit Opinion, dated April 30, 2024:

> *"We view the Newfoundland and Labrador Board of Commissioners of Public Utilities (PUB) as one of the more supportive regulators in Canada because decisions are timely and balanced, deferral accounts generally reduce risks from factors beyond management's control and NPI's 45% equity capital is among the highest authorized levels in Canada. NPI has pending regulatory filings requesting rate increases and we expect regulatory decisions will continue to provide the company with an opportunity to recover its costs in a timely fashion and earn its allowed returns, as it has in the past."*[78]

Moody's overall credit rating for Newfoundland Power is based on its rating methodology scorecard factors. Moody's regulated electric and gas utilities scorecard is composed of a mixture of quantitative and qualitative factors. The quantitative factors are the credit metrics and

[77] Company Evidence, page 3-20, lines 6-7.
[78] Moody's Investors Service, Credit Opinion, April 30, 2024, page 1.

make up 40% of Moody's overall credit rating. The remaining 60% of the scorecard is based on qualitative factors. These include the overall regulatory framework, the consistency and predictability of regulation, and the ability of utilities to recover their costs and earn their authorized returns.[79]

The Company's Vice President, Finance and Chief Financial Officer, Ms. Paige London, was asked what regulatory actions might be viewed as a decrease in regulatory support by rating agencies. Ms. London observed:

> *"I'm always reluctant to speak on behalf of the credit raging agencies, but in my opinion as CFO, the rating agencies have placed reliance on this Board and the orders and consistency and predictability of regulation over time and that I think is a key factor in the rating score card. So, at a time when our business risks are still consistent, we'll say with the last number of years, and we do have some significant business risks ahead of us as well, that a reduction in our equity percentage at this time could be viewed as a decrease in regulatory support."*[80]

As recognized by the Newfoundland and Labrador Court of Appeal, a given capital structure cannot be changed quickly or easily, and should be assessed with a long-term view.[81] This concept was addressed by Dr. Booth. During cross examination, Dr. Booth stated:

> *"Any change in the common equity ratio, simply because it is perceived to be a longer-term thing, [credit rating agencies would] look at that very seriously."*[82]

[79] Moody's Investor Service, Credit Opinion, April 30, 2024, page 9, Exhibit 10.
[80] Ms. London Transcript, June 17, 2024, page 137, lines 15-25, page 138, lines 1-3.
[81] Company Evidence, page 3-20, lines 20-23.
[82] Dr. Booth Transcript, June 21, 2024, page 77, lines 2-5.

Practically, a reduction in Newfoundland Power's equity ratio would require special dividends to be paid to the Company's shareholder. For common equity ratios of 43% and 40%, special dividends would be approximately $60 million to $80 million, respectively.[83] This would have cost implications and other consequences, including an increase in financial risk, a decrease in credit metrics, and a potential re-evaluation of regulatory support by credit rating agencies.[84]

3.1.4.2 Concentric's Recommendation

In its evidence, Concentric observed that Newfoundland Power's credit rating is the same as other electric operating utilities in Canada such as FortisBC and FortisAlberta.[85] Overall, Concentric showed that the Company has a comparable financial risk profile in relation to the U.S. Electric proxy group but a significantly lower equity thickness.[86]

Concentric confirmed that Newfoundland Power's historic business risks, as outlined above, have continued to persist.[87] With regard to the Rate Mitigation Plan, Concentric noted that the Company is unique in its dependence on a single supplier and observed as follows:

> *"… the Provincial government's recently announced rate mitigation plan provides short-term certainty around increases in power supply costs from Newfoundland and Labrador Hydro ("Hydro") for Muskrat Falls related costs through 2030, but it does not provide any rate certainty for other costs or beyond that point in time. From a cost of capital perspective, investors are primarily concerned with longer term risks that affect the ability of a company such as Newfoundland Power to recover its prudently incurred costs and to earn its authorized return. Moreover, the rate mitigation plan does nothing to reduce the risk associated with reliability concerns on the Labrador Island Link."*[88]

83 PUB-NP-066.
84 CA-NP-072.
85 Concentric Evidence, page 59, footnote 83.
86 *Ibid.*, page 56, figure 34, and page 59, lines 22-24.
87 *Ibid.*, page 69, lines 27-28, and page 70, lines 1-10.
88 Concentric Rebuttal, page 44, lines 8-16. See also Concentric Transcript, June 19, 2024, pages 132-136.

Concentric concluded that Newfoundland Power has above average business risk compared to other Canadian electric utilities as well as the U.S. Electric proxy group.[89] In respect of capital structure, Concentric concluded that the Company's current deemed common equity ratio of 45% remains the minimum appropriate level.[90]

3.1.4.3 Booth's Recommendation

Dr. Booth recommends an average common equity ratio of 40% for Newfoundland Power.[91] Dr. Booth states his opinion that the Company's business risk is not higher than other Fortis-owned utilities.[92] Dr. Booth states that Newfoundland Power "*has not suffered any risk whatsoever*" on the basis that the Company has historically been able to earn its allowed ROE.[93]

As an "interim solution", Dr. Booth suggests replacing a 5% common share component with preferred shares and deeming their return at the cost of Fortis' preferred shares.

During cross examination, Dr. Booth expressed his opinion that, unless there is a significant change in business risk, equity thickness should not be changed:

> *"Q. … my understanding is that your opinion is that unless business risk change significant you don't modify or change the allowed equity thickness. Isn't that your expressed opinion before these Boards?*
>
> *A. That's my expressed opinion…"*[94]

[89] Concentric Evidence, page 78, lines 3-24, and page 82, lines 14-30.
[90] Concentric Evidence, page 83, lines 25-27.
[91] Booth Evidence, page 2, lines 13-15.
[92] *Ibid.*, page 92, lines 7-12.
[93] *Ibid.*, page 97, lines 3-4.
[94] Dr. Booth Transcript, June 20, 2024, page 94, lines 23-24 to page 95, lines 1-5.

Further in cross examination, Dr. Booth stated that Newfoundland Power's business risks have not changed over time:

> *"Q. … your opinion on risk hasn't changed all the way along in terms of Newfoundland Power. You're (sic) assessment--your assessment of Newfoundland Power as having an average business risk, and having a less than average financial risk, that hasn't changed over time.*
>
> *A. That hasn't changed."*[95]

Dr. Booth's expectation is that his recommendations respecting cost of capital will have an effect on Newfoundland Power's credit rating:

> *"Q. … in the event the Board did reduce the ROE here for Newfoundland Power to 7.7 on a 40 percent equity thickness, do you think that that would have an effect on credit rating agencies' assessment of Newfoundland Power?*
>
> *A. Absolutely. As I mentioned, any sort of a shock affects the rating agencies, they don't like—they like prediction and one of the things, I mean I think it's Moody's explicitly says 50 percent of their weighting, its ability to earn the allowed ROE and regulatory protection. Credit metrics are important, but the most important thing is that the bond holders get their money back and what they want to know is how the regulator behaves…"*[96]

Further in cross examination, Dr. Booth stated his expectation that his recommendations may result in a reduced credit rating for Newfoundland Power:

> *"Q. It's your position bond holders would not be affected by this type of a regulatory shock, I would suggest, of 7.7 and 40 percent?*
>
> *A. I think this would be a surprise to the credit rating agencies and I'll freely admit that. I can't change what I regard as fair based upon the fact that there may be some reduction in Newfoundland Power's bond rating."*[97]

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[95] *Ibid.*, page 96, line 24 to page 97, lines 1-8. See also pages 106-107.
[96] *Ibid.*, page 131, line 25 to page 132, lines 1-17.
[97] *Ibid.*, page 134, lines 12-21.

Dr. Booth observes that a capital structure is a long-term characteristic that should not be altered without a significant change in risk. He further observes that Newfoundland Power has not experienced a significant change in risk. Despite these observations, Dr. Booth recommends a significant decrease in the Company's common equity ratio.

3.1.4.4 Submission on Capital Structure

The Company submits that there has been no material change in circumstances that would justify a change in its capital structure since its last GRA. Dr. Booth has identified no change in the Company's business risks since 2009. Concentric indicates that Newfoundland Power has higher than average business risk relative to its peers.

Credit rating agencies have made it clear that Newfoundland Power's 45% common equity ratio is a key financial strength of the Company.[98] It is viewed as a primary indicator of overall regulatory support and is required to mitigate the company's financial and business risks and weak financial flexibility.

Dr. Booth's recommendation of a 40% equity thickness and a ROE of 7.7% would result in Newfoundland Power having limited ability to issue first mortgage bonds by 2026, resulting in higher costs for customers.[99]

Newfoundland Power submits that the Board should maintain its common equity ratio of 45%.

[98] See Order No. P.U. 3 (2022), page 5, lines 13-16.
[99] Ms. London Transcript, June 14, 2024, pages 176-179.

3.1.5 Return on Equity

The Application proposes a ROE of 9.85% for ratemaking purposes.

The Company's proposed ROE is based upon the recommendation of Concentric, who has utilized market-based inputs and well-established methods of determining the actual cost of capital as determined by the markets. The proposed increase in Newfoundland Power's ROE is based on market dynamics that have changed significantly since 2021. It also partly reflects the fact that the ROEs of Canadian investor-owned utilities have generally increased since 2021. Excluding Newfoundland Power, allowed ROEs for electric utilities across Canada currently range from 9.00% to 9.65%,[100] which is an increase from the range of 8.50% to 9.35% at the time of the Company's last GRA. [101]

Dr. Booth has proposed that the Board reduce Newfoundland Power's allowed ROE to 7.7% for ratemaking purposes. This is slightly higher than the ROE proposed by Dr. Booth in the Company's 2022/2023 GRA. Dr. Booth's proposed ROE is 80 basis points below Newfoundland Power's existing ROE of 8.50%, which is the lowest authorized ROE for any investor-owned regulated utility in Canada.[102]

3.1.5.1 Recent Regulatory Precedent in Canada

The cost of capital of Canadian investor-owned regulated utilities has generally increased since 2021. In Ontario, the authorized ROE for Ontario Electric Utilities has increased from 8.66% in

[100] PUB-NP-122.
[101] PUB-NP-057.
[102] PUB-NP-124.

2022 to 9.21% in 2024.[103] In September 2023, the BCUC increased the authorized ROE for FortisBC from 9.15% to 9.65% and increased its allowed equity thickness from 40% to 41%. In Alberta, the AUC raised the authorized ROE for Alberta Electric Utilities from 8.5% to 9.28% in October 2023.[104]

Both the BCUC and the AUC have recently accepted the use of a North American proxy group comprised of utility companies in both Canada and the U.S. to set the authorized ROE for utilities in their jurisdiction without making any adjustment to the U.S. data. This is due to the fact that capital markets in economies of Canada and the U.S. are highly integrated and competing for capital from the same pool of investors.[105] The evidence of Concentric is that, with regard to business risk, Newfoundland Power is more comparable to the companies in the U.S. proxy group than those in the Canadian proxy group.[106] In comparison to the U.S. utilities in the North American Electric Utility proxy group, Concentric provided that the Company generally has somewhat higher business risk.[107]

In their most recent decisions, the BCUC and the AUC both accepted the use of Blume-adjusted betas in their CAPM analyses.[108] The BCUC noted that this was a departure from its decisions in 2013 and 2016.[109] Canadian regulators, either explicitly or implicitly, have also accepted reliance

[103] PUB-NP-122. See also Concentric Rebuttal, page 39, figure 6.
[104] PUB-NP-122 and PUB-NP-124.
[105] Concentric Rebuttal, pages 16-17. See also PUB-NP-115.
[106] Concentric Evidence, page 78, line 28 to page 79, line 5.
[107] *Ibid.*, Exhibit JMC-13.
[108] PUB-NP-118.
[109] Concentric Evidence, pages 44-45 and 50.

upon Risk Premium methodology in estimating a fair ROE by regulators in British Columbia, Ontario and Alberta.[110]

It remains common practice for Canadian regulators to include an adjustment for flotation costs in their authorized ROEs. In its most recent decision, the BCUC did not make an explicit adjustment for flotation costs for FortisBC. To compensate, and to ensure these incurred costs were recovered, the BCUC increased FortisBC's equity thickness by 1%.[111]

3.1.5.2 Concentric's Recommendation

Concentric recommends an authorized ROE of 9.85% for Newfoundland Power.

As in previous rate applications, Concentric has based its recommendation on an analysis of three utility proxy groups of publicly traded companies with business and financial risks comparable to the Company. The proxy groups are the Canadian Proxy Group, the U.S. Electric Proxy Group, and the North American Electric Proxy Group, which includes a mix of Canadian and U.S. utility companies.

To estimate the cost of equity for Newfoundland Power, Concentric relies on a combination of analytical techniques, or models, to gauge the cost of equity for the proxy groups. The models are the CAPM model, the multi-stage and constant growth DCF model, and the Risk Premium model. The Risk Premium model is not used to analyze the Canadian Proxy Group because there

[110] PUB-NP-121.
[111] PUB-NP-120.

are not enough Canadian ROE decisions to develop a statistically meaningful regression analysis for the Canadian Proxy Group.[112]

The results of Concentric's analysis are presented in Figure 43 of Concentric's Evidence:

Summary of Alternative Results

	CANADIAN UTILITY PROXY GROUP	U.S. ELECTRIC PROXY GROUP	NORTH AMERICAN ELECTRIC PROXY GROUP
MULTI-STAGE DCF	10.17%	9.38%	9.42%
HISTORICAL CAPM	9.57%	10.15%	9.86%
RISK PREMIUM		10.26%	10.26%
AVERAGE	**9.87%**	**9.93%**	**9.85%**

Concentric's recommendation relies on the outcome of multiple analytic techniques. This is consistent with the findings of the Ontario Energy Board that the use of multiple models is superior. Similarly, the AUC and the BCUC have recently relied on the outcomes of multiple models. This approach ensures that ROE estimates reflect all relevant information that investors consider.[113]

Concentric's recommendation uses the Multi-Stage DCF model and the CAPM with a historical risk premium, and the Risk Premium model. This provides a more conservative estimate of the cost of equity for Newfoundland Power.[114]

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112 Concentric Evidence, page 48, lines 16-18.
113 Concentric Rebuttal, pages 21-23.
114 Concentric Evidence, pages 85-86 and PUB-NP-119.

3.1.5.3 Booth's Recommendation

Dr. Booth's recommended ROE for Newfoundland Power is 7.7%. This recommendation is 160 basis points lower than the average authorized ROE for investor-owned electric utilities in Canada of 9.30% and 130 basis points lower than the authorized ROE of any investor-owned utility in Canada.[115]

Dr. Booth's recommendation is based upon the results of his "conditional CAPM" analysis. Dr. Booth says that a conventional or generic CAPM estimate for a benchmark utility at the present would be within a range of 7.05% to 7.90% and a mid-point of 7.45% if the method as applied prior to the financial crisis in 2008 was used.[116] Dr. Booth goes on to say "*with the slight slowdown I warrant the CAPM estimate as being marginally low and would add the credit risk adjustment for a conditional CAPM (CCAPM) rounded estimate of 7.70% which is slightly lower than that produced by the modified NEB formula.*"[117]

Dr. Booth's final recommendation is based upon a forecast long-term Canada bond yield of 3.8%, a credit risk adjustment of 0.23% and a utility risk premium of 2.75% to 3.6%. Dr. Booth also makes a 0.5% adjustment which has been referred to as a "flotation cost allowance".[118] In his testimony, Dr. Booth stated, "*... my recommendation includes the 50 basis points adjustment as it does across every utility in Canada…*"[119]

[115] Concentric Rebuttal, page 23, lines 13-16.
[116] Booth Evidence, page 46, lines 1-8.
[117] *Ibid.*, page 48, line 19 to page 49, line 2.
[118] *Ibid.*, page 46, line 4.
[119] Dr. Booth Transcript, June 21, 2024, page 86, lines 17-19.

Dr. Booth's recommended ROE is based primarily on the outcome of his conditional CAPM analysis. He does, however, rely on a number of DCF calculations to inform his CAPM results.[120] Dr. Booth performs a DCF analysis on a group of 13 U.S. electric utilities based on forecast earnings growth rates and sustainable growth rates. When an adjustment is made for flotation costs, this DCF calculation produces results similar to Concentric's.[121] The other DCF analyses provided by Dr. Booth are based on historical economic growth rates for Canada and the U.S. and do not provide a forward-looking estimate of the cost of equity for the utility industry generally, or Newfoundland Power in particular.[122]

In his testimony, Dr. Booth outlined his expectation that his recommended ROE would cause concern to credit rating agencies:

> *"Q. The next question that I have relates to your recommendation, and I just wanted to confirm with you my understanding is that your recommend – you agree that your recommendation of a 7.7 percent ROE on a 40 percent capital structure would raise red flags with the credit rating agencies and would be a concern to the credit rating agencies. Is that correct?*
>
> *A. That's correct. I think any – look, the proposition is simple. Any reduction in the ROE lowers the EBIT, earnings before interest and tax, lowers the times interest earned, and the rating agencies pay attention to that."*[123]

3.1.5.4 Submission on Return on Equity

The Company submits that Dr. Booth's DCF analysis has limited value as much of the analysis is based on historical economic data and sustainable growth rates rather than forward-looking earnings per share growth rates for a proxy group of utilities with comparable risk to

[120] *Ibid.*, page 39, lines 11-16.
[121] Concentric Rebuttal, page 33, lines 4-7.
[122] *Ibid.*, page 33, lines 7-10.
[123] Dr. Booth Transcript, June 21, 2024, page 76, lines 12-25, and page 77, lines 1-2.

Newfoundland Power. The evidence of Concentric is clear that historical earnings and dividend growth among the proxy group companies exceeded GDP growth by a wide margin, with the exception of dividend per share growth for the North American Electric proxy group, where the two measures are approximately equal.[124]

Dr. Booth's market risk premium estimate is informed by the Fernandez survey.[125] The Company submits that Dr. Booth's reliance on the Fernandez survey to inform his estimation of the market risk premium is flawed. The Fernandez survey is biased toward those who choose to respond to the survey. Of 15,000 emails sent, Fernandez received only 1,717 reportable responses. It is not clear from the responses how the respondents derived their MRPs or for what purpose. The wide range of survey responses from 4% to 8% illustrates the importance of alternative measures of MRP.[126]

Newfoundland Power submits that Dr. Booth's estimates of beta in his CAPM analysis is unreasonable. Dr. Booth uses a range of beta coefficients for regulated utilities that are based on his subjective judgment. During cross examination, Dr. Booth stated:

> *"So, there has been an increase in my beta estimates. They're still not adjusted because I can't find any evidence whatsoever for a beta adjustment towards 1, but I still do think we should adjust beta estimates based upon judgment."*[127]

While Dr. Booth's estimates of beta have increased since 2021, which reflects a recognition that utility risk relative to the wider market has increased, his estimated beta coefficients are not

[124] Concentric Evidence, page 38, figure 22, and page 39, lines 1-23.
[125] Booth Evidence, page 43.
[126] Concentric Rebuttal, page 25, lines 15-22, and page 26, lines 1-9.
[127] Dr. Booth Transcript, June 20, 2024, page 208, lines 4-10.

based on current market data for companies that are comparable in risk to the Company. In oral testimony, Dr. Booth described how he exercises judgment to adjust betas. [128]

Conversely, Concentric's betas are based on objective market data. Concentric uses five-year weekly betas from Bloomberg and Value Line for their Canadian and U.S. proxy group companies. Bloomberg and Value Line betas for these companies have increased since January 2020 to approximately 0.90, which is substantially higher than the long-term historical average of 0.60 to 0.70.[129] While Dr. Booth disagrees with the use of Blume-adjusted betas, even the unadjusted raw betas from Bloomberg are substantially higher than the betas used by Dr. Booth.[130] This demonstrates that Dr. Booth's CAPM estimates of ROE are not reasonable.

In summary, Dr. Booth's recommendation does not reflect a return comparable to other investor-owned Canadian electric utilities, is inconsistent with the maintenance of the Company's creditworthiness, and impairs future access to least cost financing. Dr. Booth's recommendation in this proceeding does not meet any element of the fair return standard.

Newfoundland Power submits that a fair return on equity for Newfoundland Power is 9.85%. This recommendation would satisfy the fair return standard and the requirements of the provincial regulatory framework.

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128 *Ibid.*, pages 199-201.
129 Concentric Rebuttal, page 28, lines 4-10.
130 *Ibid.*, page 29, figure 5.

3.2 OPERATING COSTS

Gross operating costs represent approximately 10% of Newfoundland Power's proposed 2026 revenue requirement.[131] The evidence shows that the Company's cost management reflects an appropriate balance of cost and service in both the short and long term.

While Newfoundland Power's 2025 and 2026 test year operating costs were scrutinized during the proceeding, there is no basis in the evidence to indicate they are unreasonable.

3.2.1 Balancing Costs and Service

Newfoundland Power is required to ensure that reliable service is delivered to customers at the lowest possible cost, in an environmentally responsible manner. The Company is therefore obligated to operate efficiently and ensure there is an appropriate balance between cost and service.[132] In addition, Newfoundland Power is obligated to provide safe and reliable electrical service, and to effectively respond to customers' service requirements.[133]

The evidence demonstrates that Newfoundland Power has met its legislative requirements, as summarized by Mr. Murray:[134]

> *"The record shows that we've been successful in balancing our cost, while maintaining reliability of service to our customers. Over the past decade we've maintained the reliability of electricity system at a consistent level while simultaneously reducing cost for our customers. Over the last 10 years, for example, we have reduced our operating cost per customer by approximately 9.5 percent on an inflation adjusted basis. Over that*

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131 Company Evidence, pages 2-29 to 2-36.
132 EPCA, section 3(b)(iii).
133 *Public Utilities Act,* Section 37.
134 Company Evidence, pages 1-2 to 1-4.

period customer satisfaction with our service delivery remained consistent. That shows we have met our customer service expectations while lowering cost."[135]

Beyond statutory obligations, an assessment of Newfoundland Power's operating costs must recognize they are subject to inflationary and external market cost pressures.[136]

Mr. Chubbs described the impact inflation has had on the Company's operating costs since its last GRA:

> *"We filed our last General Rate Application in 2021. At that time inflation was forecast to be 5.8 percent from 2020 through to our 2023 test year. Actual increases were significantly higher at approximately 17 percent. Those unanticipated increases in inflation are reflected in our actual operating costs for that period."* [137]

Further, higher costs in the test year period are necessary to meet certain work requirements such as for regulatory proceedings, changes in accounting standards and to meet cybersecurity requirements.[138]

Within this context, Mr. Murray described Newfoundland Power's approach to cost management:

> *"We consider cost in everything we do. We know that these are challenging times for our customers. As I've said, we are experiencing inflation that is higher than it has been in decades, and we know that customers are experiencing that pressure as well. In terms of cost management, Newfoundland Power seeks to achieve cost control and operation*

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135 Mr. Murray Transcript, June 13, 2024, page 51, line 19 to page 52, line 9.
136 PUB-NP-017. External market cost pressures may be in excess of general inflationary trends – for example, information technology licensing and support costs as outlined in PUB-NP-022, part a). Market price changes for insurance premiums would be another example.
137 Mr. Chubbs Transcript, June 26, 2024, page 7, lines 12-20.
138 PUB-NP-018, part f).

efficiencies that are sustainable over the long-term. This contributes to our ability to provide least cost reliability service to our customers."[139]

Newfoundland Power's approach to cost management focuses on the effective deployment of the Company's human resources and use of operational technologies. The record provides more than two dozen specific examples of sustainable productivity improvements, demonstrating the Company's commitment to seeking out and implementing efficiencies, whether they are large or small in nature.[140]

Without Newfoundland Power's proactive and consistent approach to sustainable cost management, the test year operating costs would be higher than what is proposed in the Application.[141]

The Company's approach to cost management differs from a more simplistic view of cost management aimed at cost cutting, which does not appropriately reflect the relationship between costs and service and is not sustainable over time.[142]

Newfoundland Power's operating cost management is also demonstrated through various benchmarking metrics:

(i) Gross operating cost per customer decreased by approximately 9.5% on an inflation-adjusted basis from 2013 to 2022;[143]

139 Mr. Murray Transcript, June 13, 2024, page 51, lines 1-12.
140 PUB-NP-017, PUB-NP-023, PUB-NP-027 and NLH-NP-007.
141 NLH-NP-008 and the Company Evidence, page 2-27, figure 2-11.
142 Mr. Chubbs Transcript, June 26, 2024, pages 97-98.
143 PUB-NP-140, part a).

(ii) The inflation-adjusted operating cost per customer of the Company's U.S. peer group increased by 15.1% over the 2013 to 2022 period, compared to Newfoundland Power's 9.5% decrease;[144]

(iii) Gross operating cost per customer is forecast to decrease by 0.7% on an inflation-adjusted basis between 2024 and 2026;[145]

(iv) Labour costs are forecast to increase by 3.1% per year from 2022 to 2026, approximately 1% less than the Company's labour inflation rate;[146] and

(v) Operating cost per kWh has been relatively consistent over the last decade.[147]

As explained by Mr. Chubbs, Newfoundland Power uses the GDP Deflator to inflation-adjust its non-labour costs. As such, the inflation-adjusted figures still reflect higher costs related to external market cost pressures, such as those related to insurance and information technology licence and support costs, that are above the GDP Deflator as well as increased work requirements in the test years.[148]

Grant Thornton reviewed the Company's operating expense forecast including the methodology, key assumptions, responses to inquiries, and performed trend analysis.[149] Based on its review, Grant Thornton did not identify any irregularities or inconsistencies in its supplemental report.[150]

144 PUB-NP-011.
145 NLH-NP-103, part b).
146 PUB-NP-140, part a).
147 PUB-NP-010.
148 Mr. Chubbs Transcript, June 26, 2024, page 173.
149 Grant Thornton Supplemental Report, page 2.
150 *Ibid.*

3.2.2 Labour Costs

Maintaining a skilled workforce enables the Company to provide efficient and effective service delivery over the long term. [151] Average annual labour inflation of 4.1% over the 2022 to 2026 forecast period primarily reflects collectively bargained base wage increases negotiated by the Company and the IBEW, which is consistent with past regulatory practice.[152]

Annual increases in Newfoundland Power's labour costs are comparable to the other Atlantic Canadian utilities over the same period.[153] Mr. Chubbs provided the following regarding wage increases being sought in the utility sector:

> *"…coming out of the pandemic many industries sought wage increases, including the utility sector. In fact, most of the utilities in Atlantic Canada have been impacted with comparable collectively bargained wage increases over the period from 2023 to 2026. These increases have a measurable impact on costs."* [154]

Implementing, enhancing and leveraging operational technologies enables the Company an opportunity to keep increases in labour costs to a level less than inflation and to maintain overall efficient service delivery to customers. From 2022 to 2026, technology initiatives are forecast to reduce operating labour costs by a total of approximately $480,000. This is approximately 1% of forecast operating labour in 2026.[155]

Further, Newfoundland Power is forecasting to maintain its workforce at a stable level of full-time equivalent employees over the 2024 to 2026 period.[156]

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151 PUB-NP-017.
152 PUB-NP-029, part a).
153 *Ibid.,* see also PUB-NP-031.
154 Mr. Chubbs Transcript, June 26, 2024, page 10, lines 17-24.
155 PUB-NP-017.
156 PUB-NP-013, part a).

Overall, a reasonable level of labour efficiency is demonstrated from 2022 to 2026 with labour costs increasing by 1% less than the Company's labour inflation rate over that timeframe.

3.2.3 Other Costs

Other costs include the goods and services Newfoundland Power acquires from third parties to provide service to customers. These goods and services are typically acquired through competitive processes to ensure they are consistent with least-cost service delivery.[157] Year-over-year variations in other costs generally reflect changes in Newfoundland Power's operating requirements, such as changes in requirements for vegetation management.[158]

Other costs are forecast to increase by 4.9% on an annual basis from 2022 to 2026.[159] Increased other costs primarily reflect higher insurance, computing equipment and software costs, and other company fees. Excluding these three costs, other costs are forecast to increase by an average of 1.3% annually from 2022 to 2026, which is 0.2% lower than the average annual GDP Deflator for the same period of 1.5%.[160]

<u>*Insurance*</u>

Over the past three years, annual insurance premium increases have averaged approximately 10%.[161] This is consistent with overall insurance market trends as described by Mr. Chubbs:

> *"Insurance costs are increasing at a rate greater than inflation. This is another market trend that is not unique to Newfoundland Power. We retain insurance industry experts who have confirmed that the rates we pay for insurance are the best available."* [162]

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157 Company Evidence, page 2-36.
158 PUB-NP-141, parts f), g) and h). See also Mr. Chubbs Transcript, June 27, 2024, page 53.
159 Company Evidence, page 2-36.
160 PUB-NP-017.
161 *Ibid.*
162 Mr. Chubbs Transcript, June 26, 2024, page 10, lines 1-7.

Newfoundland Power participates in the Fortis Inc. group insurance program, which enables access to broad coverage at the best available rates. The Company's insurance broker, Aon Reed Stenhouse Inc., confirms each year that Newfoundland Power's rates and coverages are the best available, given current market conditions.[163] Further, a review undertaken by Aon Reed Stenhouse Inc. in 2021 determined that the Company achieves the greatest cost efficiency and the broadest coverage by participating in the Fortis Inc. group insurance program compared to obtaining independent coverage.[164] Finally, Newfoundland Power observes that customers continue to benefit from this insurance coverage, including from recent claims related to transformer in-service failures.[165]

Computing Equipment and Software

Computing equipment and software costs include annual licensing and support fees for third-party hardware and software solutions, including cybersecurity.[166] Increases in computing equipment and software costs are reflective of market increases by software vendors, which have been above GDP Deflator increases.[167]

Mr. Chubbs described the importance of licensing and support services in light of growing cyber security threats:

> *"…computing equipment and software costs include annual licensing and support fees for hardware and software solutions. Increases in these costs are consistent with general market trends. Cyber security threats have evolved significantly. As a result, maintaining robust cyber security capabilities, up-to-date software versions and security patches is*

[163] NLH-NP-021, Attachment A.
[164] U-03.
[165] PUB-NP-017.
[166] PUB-NP-022, part a).
[167] Mr. Chubbs Transcript, June 27, 2024, page 44.

> *critical. This not only supports our operations, it protects the electricity system and our customers' personal information from cyber threats."* [168]

Newfoundland Power manages these costs through a combination of competitive tendering, securing multi-year agreements, where possible, engaging license advisory services, considering ongoing costs associated with new system implementations, and optimizing internal use of licenses.[169]

<u>*Other Company Fees*</u>

Table 1 in U-10 provides a detailed breakdown of the forecast other company fees of $4.7 million included in the 2026 test year. More than half of the 2026 test year costs relate to relatively routine consulting costs such as: (i) fees for audits, credit rating agencies, pension actuarial services, and legal services; (ii) engineering consulting and inspection costs; and (iii) Board and Consumer Advocate costs related to annual capital budget filings, annual reviews and other minor filings.[170]

Other company fees forecast for the 2026 test year also include amounts related to information technology, major regulatory proceedings and upcoming changes in accounting standards related to IFRS. As provided by the Settlement Agreement, costs associated with the conversion to IFRS will be deferred and excluded from the 2025 and 2026 test year revenue requirements.[171]

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168 Mr. Chubbs Transcript, June 26, 2024, page 9, lines 14-25.
169 PUB-NP-017.
170 Includes all rows in Table 1 in U-10 except Information Technology of $1.0 million, IFRS of $0.5 million, Next NP GRA of $0.4 million and Hydro Proceedings of $0.3 million.
171 Appendix A, page A-3.

Table 1 in U-09 provides a breakdown of other company fees for information technology in the 2026 forecast and explains the requirement for each cost item. Approximately one third of these test year costs relate to cybersecurity,[172] which includes fees for annual penetration testing, incident response support and risk management assessments as well as third-party 24/7 monitoring services to reduce cybersecurity risk.[173]

The following major regulatory proceedings are anticipated to occur over the 2024 to 2026 period: (i) the Company's current GRA; (ii) Hydro's upcoming GRA; (iii) Hydro's *Reliability and Resource Adequacy Study*; and (iv) the filing of Newfoundland Power's next GRA. External resources allow Newfoundland Power to file the necessary information associated with its regulatory proceedings and intervene on behalf of its customers in Hydro matters that impact the costs and reliability of the provincial electricity system.[174]

Newfoundland Power minimizes these costs by using external consultants and experts to meet the specific temporary work requirements associated with these regulatory proceedings.[175]

3.2.4 The Issue of a Productivity Allowance

A productivity allowance is intended to provide an incentive to manage costs and find efficiencies or is imposed in a situation where the proposed test years costs are found not to be consistent with least-cost reliable service.[176]

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172 $312,000 / $967,000 = 0.32.
173 PUB-NP-141, part c).
174 PUB-NP-023.
175 *Ibid.*
176 PUB-NP-140, part a).

As summarized throughout this section, Newfoundland Power has demonstrated sound cost management and a continued focus on finding operating cost efficiencies throughout the 2025 and 2026 forecast period in a manner consistent with the provincial power policy.

Further, when the Board last imposed a productivity allowance, which was associated with Hydro's 2017 GRA, its assessment included recent actual and forecast costs as well as operating cost metrics.[177]

Newfoundland Power derived its 2024 to 2026 forecast costs primarily from its 2022 actual and 2023 forecast operating cost information.[178] Operating cost increases forecast over the 2024 to 2026 period are primarily inflationary in nature when compared to recent actuals, with the exception of labour efficiencies and higher non-labour costs related to insurance costs, computing equipment and software costs and other company fees.[179] Further, Newfoundland Power's operating cost benchmarking metrics are reasonable.[180]

The Company recognizes that 2023 actual costs are higher than the 2023 test year operating costs and that overall customer rate impacts stemming from Newfoundland Power's Application are larger than those provided for in previous GRAs. However, the fact these increases exist is not in itself evidence that the costs sought in the Application are unreasonable, or that the Company is not operating in an efficient manner. The evidence on the record of this proceeding provides

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177 *Ibid.*
178 The Company's 2023 actual operating costs were consistent the 2023 forecast. See NLH-NP-029, Attachment A.
179 The evidence for the reasonableness of these costs was summarized in *Section 3.2.3 Other Costs* of this submission.
180 The evidence for the reasonableness of these metrics was summarized in *Section 3.2.1 Balancing Costs and Service* of this submission.

the justification for each cost item included in the 2025 and 2026 test year with particular focus on the larger cost items scrutinized during the proceeding.[181] Further, the evidence on the record demonstrates how Newfoundland Power operates in an efficient manner.[182]

Ultimately, the 2025 and 2026 test year operating cost amounts approved by the Board must provide the Company an opportunity to recover its reasonable costs.[183] There is no basis in the evidence to indicate any cost item included in the 2025 and 2026 test year operating cost forecasts are unreasonable.

3.2.5 Submissions

The evidence before the Board indicates that Newfoundland Power's forecast 2025 and 2026 operating costs are reasonable and consistent with the provision of least-cost reliable service.

Accordingly, the Company submits that it would not be appropriate to impose a productivity allowance on Newfoundland Power's 2025 and 2026 test year operating forecasts.

[181] The larger cost items are: labour, insurance, computing equipment and software costs, other company fees, as well as vegetation management costs. These costs are discussed throughout this section with reference to the supporting evidence for each cost item.
[182] As discussed in *Section 3.2.1 Balancing Costs and Service* of this submission.
[183] See, for example, Mr. Kevin Fagan Transcript, June 13, 2024, page 4, lines 4-13.

3.3 EXECUTIVE COMPENSATION

The Board periodically examines Newfoundland Power's executive compensation in GRAs. In the Application, the Company's compensation was reviewed. There are no specific proposals in the Application related to executive compensation; rather, executive compensation forms part of Newfoundland Power's forecast operating costs for the 2025 and 2026 test years.

3.3.1 Background

The Company's executive compensation policy sets compensation based on the median (or 50th percentile) of its comparator group, the broad Canadian Commercial Industrial market. Newfoundland Power's Board of Directors first adopted the Canadian Commercial Industrial market as its comparator group for the purposes of executive compensation in 1997. The comparator group was first reviewed by the Board in 1998, and the Board determined that the use of the Canadian Commercial Industrial market as a comparator group was appropriate.[184]

The Company has continued to use the median of this comparator group for the purposes of establishing executive compensation since that time. In every examination of Newfoundland Power's executive compensation since 1998, including most recently in 2016, the Board has found Newfoundland Power's executive compensation policy to be reasonable.[185]

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[184] Order No. P.U. 36 (1998-99), page 41.

[185] Order No. P.U. 19 (2003), page 93; Order No. P.U. 43 (2009), page 37; Order No. P.U. 13 (2013), pages 53 to 54; and Order No. P.U. 18 (2016), page 44.

3.3.2 Evidence

<u>*Korn Ferry*</u>

Newfoundland Power provided an expert report on its executive compensation practices, authored by Mr. Wiclif Ma, Senior Client Partner for Korn Ferry. Mr. Ma has provided expert evidence on executive compensation for the last two Newfoundland Power GRAs.

Mr. Ma's evidence was that:

(i) it is reasonable for Newfoundland Power to use comparative executive jobs within the broad Canadian Commercial Industrial market as its comparator group;[186]

(ii) it is reasonable for Newfoundland Power to use the median (50th percentile) level of comparator group compensation values as the basis by which to establish its own executive pay standards, and that this is typical in the Canadian marketplace across all industries and sectors;[187]

(iii) Newfoundland Power executive actual salaries are close to market median;[188] and

(iv) short-term incentive levels, expressed as a percentage of salary, are lower than the market median.[189]

Newfoundland Power's long-term incentive program costs are not recovered from customers, nor are certain portions of the short-term incentive program, including non-regulated portions and any amounts above target.[190] This results in Newfoundland Power's shareholder bearing a portion of the Company's executive compensation costs on a continuing basis.

186 Korn Ferry Report, page 7.
187 *Ibid.,* page 4.
188 *Ibid.*
189 *Ibid.*
190 *Ibid.*, page 9 and table 3.

2016 to 2024 Executive Compensation Costs

In addition, from 2016 to 2024, the Hay points for Newfoundland Power's executive officers decreased from 6,876 to 6,586.[191] This decrease in Hay points resulted in a lower estimated median salary policy.[192] Further, at the current evaluation of Hay points, all Vice President positions short-term incentive targets are 35% of base salary. At the 2016 evaluation of Hay points, the short-term incentive targets were 40% of base salary.[193]

2025 and 2026 Test Year Costs

Executive compensation for the 2025 and 2026 test years is forecast on the same basis as the Company's total weighted labour cost increases.[194]

3.3.3 Submissions

Newfoundland Power has consistently applied its executive compensation policy, which has been in place and accepted as reasonable by the Board for the past 25 years. The Company has provided expert evidence that Newfoundland Power's compensation policies are reasonable. No party has presented evidence to support a finding that the use of the Canadian Commercial Industrial market as a comparator group, with the median (50th percentile) compensation values as the basis for setting executive pay and standards, is now unreasonable.

[191] U-07.
[192] *Ibid.*
[193] *Ibid.*
[194] PUB-NP-029.

Total Hay points for the Company's executive officers have decreased since 2016, resulting in a lower estimated median salary policy. In addition, the current evaluation of Hay points results in short-term incentive targets of 35% for all Vice President positions, as compared to 40% in 2016.

The evidence indicates that the executive compensation costs proposed for the 2025 and 2026 test years are reasonable. There is no evidence to the contrary.

3.4 RATE BASE AND OTHER REVENUE REQUIRMENT ITEMS

In addition to cost of capital, operating costs and executive compensation, there are other components of Newfoundland Power's 2025 and 2026 revenue requirements that were not included in the Settlement Agreement. The Company's 2025 and 2026 forecast average rate base amounts proposed in the Application were also not included in the Settlement Agreement.

This section summarizes the evidence which supports the Board's approval of the proposed amounts, subject to any adjustments arising from the Board's determinations with respect to the Application.[195]

3.4.1 Average Rate Base

Newfoundland Power's forecast 2025 and 2026 average rate base, including rate base allowances, is calculated in accordance with Board orders and regulatory practice. Changes to Newfoundland Power's average rate base are principally the result of plant investment, which includes annual capital expenditures and depreciation expense. The calculation of depreciation expense formed part of the Settlement Agreement.[196]

The Grant Thornton Report did not note any discrepancies in the clerical accuracy of the proposed 2025 and 2026 return on average rate base calculation.[197] The report found that the

[195] The proposed 2025 and 2026 average rate base amounts are provided in Exhibit 6. The proposed revenue requirement amounts are provided in Exhibit 7. Evidence for Newfoundland Power's average rate base and revenue requirement amounts is provided in the *2025/2026 GRA, Volume 1, Application, Company Evidence and Exhibits, Section 4, Rate Base and Revenue Requirement* as well as *Section 3, Finance.*

[196] See Appendix A for a discussion of the settled issues.

[197] Grant Thornton Report, page 6.

proposed average rate base accurately reflects the Company's proposals with respect to the regulatory deferral accounts and the updated calculations related to rate base allowances.[198]

An issue raised during the Request for Information process was the differences between the calculation of average rate base versus invested capital. Differences in invested capital and rate base exist related to construction work in progress, materials and supplies, and cash working capital amounts.[199] The differences in the 2025 and 2026 test years are relatively minor.[200] Differences between rate base and invested capital have arisen in recent years related to purchased power costs. A new wholesale rate will significantly reduce the volatility in purchased power costs and likely reduce differences in rate base and invested capital. Following the implementation of a new wholesale rate, Newfoundland Power plans to review the cash working capital allowance in its rate base to ensure it sufficiently reflects its cash working capital requirements (i.e. invested capital).[201]

Grant Thornton reviewed the underlying support of the reconciling items between average rate base and average invested capital amounts and found no discrepancies.[202] Grant Thornton provided that differences in invested capital and rate base exist under the asset rate base methodology and that an alternative approach to addressing variances in the cash working capital amount is to consider if the methodology used to calculate the cash working capital allowance in average rate base requires a revision.[203] Grant Thornton agreed with the Company

198 *Ibid.*
199 PUB-NP-076.
200 *Ibid.*
201 PUB-NP-153.
202 Grant Thornton Report, page 6.
203 Grant Thornton Supplemental Report, page 20.

that reviewing the methodology would be more effective if it were performed after the wholesale rate has been determined.[204]

3.4.2 Power Supply Costs

2025 and 2026 test year power supply costs include purchases from Hydro and reflect the wholesale purchased power rate effective October 1, 2019. Increases in power supply costs are primarily associated with increased purchases from Hydro to meet customers' requirements.[205]

Grant Thornton found that the purchased power forecast appears consistent with billing rates from Hydro, effective October 1, 2019, and the forecast increase in energy sales.[206]

Grant Thornton also noted that the Company has not rebased its forecast power supply energy costs into base rates for 2025 and 2026 revenue requirements, which is not consistent with past practice.[207]

Appendix B provides evidence supporting Newfoundland Power's proposed approach to the recovery of power supply costs in the Application, as agreed in the Wholesale Rate Settlement Agreement. The approach includes the rebasing of power supply costs in the Company's wholesale rate flow-through application to be filed with the Board on or about September 15, 2024 as provided by the Framework.

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[204] *Ibid.*
[205] Company Evidence, page 3-6.
[206] Grant Thornton Report, page 4.
[207] *Ibid.*

3.4.3 Employee Future Benefits

Newfoundland Power maintains plans for its employees which provide benefits upon retirement. The Company expects total employee future benefits expense to decrease by approximately $5.8 million from 2022 to 2026.[208]

Nothing came to Grant Thornton's attention during its review that would suggest forecasted employee future benefits for 2025 and 2026 are unreasonable.[209]

3.4.4 Deferred Cost Recoveries and Amortizations

In Newfoundland Power's *2024 Rate of Return on Rate Base Application*, the Company proposed deferred cost recovery of a 2024 revenue shortfall amount of $6,722,000.[210]

Implementation of customer rates associated with the GRA beginning on July 1, 2025 based on the proposed 2026 revenue requirement would result in a 2025 revenue shortfall of $16,761,000.[211]

The proposed treatment of both the 2024 and 2025 revenue shortfall amounts are consistent with past practice of the Board.[212]

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208 Company Evidence, pages 3-7 to 3-10.
209 Grant Thornton Report, page 4.
210 Company Evidence, page 3-58.
211 *Ibid.*
212 *Ibid.*

Nothing came to Grant Thornton's attention during its review to indicate the regulatory deferrals and amortizations included in the Application are unreasonable or not in accordance with relevant Board orders.[213]

On August 1, 2024, the Board issued Order No. P.U. 20 (2024), with reasons to follow, regarding the Company's *2024 Rate of Return on Rate Base Application*. The Board denied the proposals in the application and directed that Newfoundland Power may file a revised application with no rate increases for customers, a revised rate of return on rate base for 2024, updates to the 2024 forecast average rate base, the use of Newfoundland Power's 2023 Excess Earnings Account balance to offset a portion of the revenue shortfall and the deferral of the remaining 2024 revenue shortfall.[214] Further, the order provided for the transfer of the remaining portion of the 2024 revenue shortfall to Newfoundland Power's RSA for future recovery.[215]

The Company's financial forecasts under existing customer rates filed with the Application includes the impact of the proposals in Newfoundland Power's *2024 Rate of Return on Rate Base Application*. With no customer rate increase in 2024 as ordered by the Board in Order No. P.U. 20 (2024), the proposed customer rate increase on July 1, 2025 associated with the Company's 2025/2026 GRA will be higher.[216]

The Company submits that the impacts associated with Order No. P.U. 20 (2024) on its Application proposals, as well the impacts of a future order of the Board associated with

[213] Grant Thornton Report, page 5.
[214] Order No. P.U. 20 (2024), page 2, lines 33-38.
[215] *Ibid.*, page 3, lines 14-16.
[216] PUB-NP-003.

Newfoundland Power's 2024 revenue shortfall, can be addressed in an application filed in compliance with the Board's order on its 2025/2026 GRA.

3.4.5 Income Taxes

Newfoundland Power's effective income tax rate, which reflects enacted tax rates at the time of preparing the Application, is forecast to remain relatively stable through the 2022 to 2026 period.[217]

Grant Thornton found that income tax expense forecast for 2024 and proposed for 2025 and 2026 appear consistent with substantively enacted corporate income tax rates and forecast increases in net income.[218]

3.4.6 Finance Charges

Newfoundland Power's finance charges are expected to increase by approximately $8.6 million from 2022 to 2026.[219] The increase primarily reflects higher interest on long-term debt, higher short-term borrowing costs and lower Allowance for Funds Used During Construction associated with the completion of the Customer Service System Replacement Project in 2023.[220]

Nothing came to Grant Thornton's attention during its review to indicate that the proposed finance charges for 2025 and 2026 are unreasonable.[221]

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[217] Company Evidence, page 3-11.
[218] Grant Thornton Report, page 5.
[219] Company Evidence, pages 3-10 to 3-11.
[220] *Ibid.*
[221] Grant Thornton Report, page 36.

3.4.7 Adjustments to Revenue Requirement

Adjustments to Newfoundland Power's revenue requirements primarily include other revenue and transfers to the Company's RSA related to its ESCV, CDM and Electrification accounts.[222] The Grant Thornton Report did not note any discrepancies associated with these adjustments.[223]

3.4.8 Submission

Newfoundland Power submits that its 2026 and 2026 average rate base and other revenue requirement components discussed in this section be approved, subject to any adjustments arising from the Board's determinations with respect to the Application.

[222] Company Evidence, pages 4-8 to 4-11.
[223] Grant Thornton Report, page 6.

SECTION 4: REPLY TO CONSUMER ADVOCATE'S SUBMISSION

The Consumer Advocate's submission includes 16 specific recommendations for the Board's consideration in its order on the Application. This section focuses on Newfoundland Power's reply to the recommendations.

For clarification, any submissions of the Consumer Advocate beyond the 16 recommendations not addressed by Newfoundland Power should not be construed by the Board as the Company's acceptance of, or agreement with, such submissions.

4.1 RECOMMENDATION #1: ROE

4.1.1 The Consumer Advocate's ROE Analysis

The customer rates in the Application are based, in part, on the Company's proposed ROE of 9.85% with a common equity ratio of 45%. The proposed ROE and equity ratio are based on the expert evidence of Concentric filed with the Application. The evidence on the record of this proceeding provides that a 9.85% ROE with a 45% equity ratio is consistent with the fair return standard.

More generally, the increase in the Company's ROE reflects the widely recognized fact that the cost of capital has increased for all companies, including Newfoundland Power, as explained by Concentric:

> *"In general, the low capital cost and low inflation environment of the past two decades has yielded to new economic circumstances requiring the upward repricing of capital, labor, and materials to reflect new market realities."*[224]

[224] Concentric Evidence, page 28, lines 18-22.

The evidentiary basis for Newfoundland Power's cost of capital proposal does not support the Consumer Advocate's suggestion that it *"…accorded with Newfoundland Power's goal of increasing its weighted ROE and thereby increasing the benefits (i.e. profit) to its shareholder."*[225]

The Consumer Advocate submits that the Board should maintain an approved equity ratio of 45% with a ROE of 8.10%.[226] The Consumer Advocate's Submission further provides that *"If the Board decides to allow Newfoundland Power to maintain an equity ratio of 45% then the allowed ROE should be set at 8.15%."*[227] The Consumer Advocate's ROE recommendation is different than its expert, Dr. Booth.[228] In forming its own analysis of a fair return for Newfoundland Power, the Consumer Advocate completes a simple mathematical exercise, using Maritime Electric's and Nova Scotia Power's weighted ROEs, along with the Company's 45% equity ratio, to derive an ROE of 8.15%.[229]

The Consumer Advocate supports its methodology by comparing it to: a similar calculation using Concentric's Canadian Electric Average ROE; Dr. Booth's recommended ROE; and an estimate of the equity return on Newfoundland Power's Defined Benefit Pension Plan.[230]

There are significant issues with the Consumer Advocate's methodology.

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[225] Consumer Advocate's Submission, page 13, lines 2-4.
[226] *Ibid.*, page 56, lines 41-42.
[227] *Ibid.*, page 60, lines 17-19.
[228] Dr. Booth recommends a ROE of 7.7% with a common equity ratio of 40%. See Booth Evidence, page 72, line 6.
[229] Consumer Advocate's Submission, page 57, lines 8-11.
[230] *Ibid.*, page 57, line 13 to page 58, line 14.

Issue #1: It is not consistent with the EPCA, the fair return standard or past regulatory practice.

Section 4 of the EPCA requires the Board, in carrying out its duties and exercising its powers under the EPCA and the *Public Utilities Act,* to apply tests which are consistent with generally accepted sound public utility practice. Newfoundland Power submits there is no evidence to support that the Consumer Advocate's methodology is consistent with generally accepted sound public utility practice.

The methodology provides an *ad hoc* comparator group of two utilities which are not publicly traded. As provided by Concentric, *"The ROE is a market-based concept and, given the fact that Newfoundland Power is not publicly-traded, it is necessary to establish a group of companies that are both publicly-traded and comparable to Newfoundland Power's business and financial characteristics to serve as its "proxy" for purposes of the ROE estimation process."*[231]

Accordingly, Newfoundland Power submits the Consumer Advocate's comparator group does not sufficiently meet the fair return standard.

In determining a fair ROE for Newfoundland Power, the Board has historically evaluated the key aspects of expert ROE analyses, including market conditions, the Company's overall risk profile, generally accepted ROE methodologies, and proxy group selections. While the Board has observed *trends* in Canadian ROEs since Newfoundland Power's previous GRA in its assessment of a fair ROE, it has not set the Company's ROE equal to that in other Canadian

[231] Concentric Evidence, page 28, lines 24-27.

jurisdictions. The Board has made its own determination of a fair return for Newfoundland Power.

Newfoundland Power submits that the Consumer Advocate's methodology is not consistent with past practice of the Board. Further, such an approach would suggest the existence of a benchmark cost of capital for Atlantic Canada or Canada as a whole, which does not exist.

Issue #2: It does not recognize the basis for utility capital structures and ROEs.

The cost of common equity depends *in part* on a company's capital structure.[232] As explained by Concentric, from a theoretical perspective, *"Other factors being equal, firms with lower common equity ratios require higher rates of return to compensate shareholders for the additional financial risks."*[233] In reality, each utility has many unique factors that impact its business and financial risks relative to other utilities.

Accordingly, an assessment of Newfoundland Power's capital structure includes a comparison of the Company's risk to other investor-owned electric utilities in Canada, a proxy group of comparable utilities in the U.S., and changes in Newfoundland Power's risk profile since its last GRA.[234]

Based on its assessment of the Company's financial and business risks for this proceeding, Concentric concluded that *"…the current deemed common equity ratio for Newfoundland Power*

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[232] *Ibid.*, page 8, lines 24-29.
[233] *Ibid.,* page 8, lines 26-27.
[234] *Ibid.*, page 53, line 12 to page 54, line 4.

of 45 percent remains the minimum appropriate level given these relative financial and business risks."[235]

As indicated earlier, there are a number of factors that impact the Board's determination of a fair ROE beyond the Company's capital structure, including current market conditions and generally accepted ROE estimation methodologies, which use market data.

Newfoundland Power submits that the Consumer Advocate's methodology does not recognize the foundational bases of a utility's capital structure and ROE. The methodology does not provide a sufficient analysis of the Company's risk profile relative to other comparable utilities. To the contrary, the Consumer Advocate's approach makes a full adjustment to Newfoundland Power's ROE based on the difference in the Company's equity ratio compared to Maritime Electric and Nova Scotia Power. This approach is unfounded in regulatory practice.

Issue #3: It includes a comparison to pension returns.

There is no evidence on the record of this proceeding to support the use of a long-term return on equities used by pension actuaries to estimate ROEs.

The long-term return on equities used by pension actuaries is a geometric return, which is not appropriate for the estimation of a utility's cost of capital.[236] Even if the long-term geometric return is translated to an arithmetic return, the proposition that pension fund return assumptions form a legitimate basis for establishing a utility's cost of equity has the following conceptual

235 *Ibid.*, page 83, lines 25-27.
236 CA-NP-065.

difficulties. First, a pension assumption of a long-term equity market return reflects a diversified equity portfolio return, which is not necessarily comparable in risk to the equity of a utility in Newfoundland Power's circumstances. Second, there are differing goals of pension fund management (to ensure availability of assets to fund employee retirement income) and utility regulation (to set a fair return).

Other issues

There are further issues with respect to the weighted ROE analyses in the Consumer Advocate's Submission.

First, Table 1 on page 55 on the Consumer Advocate's Submission does not include the updated ROEs for Alberta, Ontario and the Canadian average as provided in U-06. Second, it does not address the allowed range of ROE for each utility, which is an important consideration for equity investors.[237] As shown in Figure 2 of Concentric's Rebuttal, Newfoundland Power has the lowest weighted ROE among Canadian investor-owned electric and gas utilities based on an analysis of upper bound ROEs.[238]

Second, both the Consumer Advocate and Dr. Booth's ROE recommendations of 8.15% and 7.70%, respectively, represent a reduction in the ROE from Newfoundland Power's existing 8.50% ROE approved by the Board in 2021. Directionally, the Consumer Advocate's recommended ROEs do not recognize that allowed ROEs have increased in British Columbia,

[237] Concentric Rebuttal, page 10, line 4 to page 11, line 9 (including figure 2).
[238] *Ibid.*

Alberta and Ontario since that time, while all utilities' equity ratios have either remained constant, or in the case of FortisBC and Nova Scotia Power, increased.[239] The U.S. Electric Utility Average authorized ROE and deemed equity structure has also increased since the Company's last GRA.[240]

Submission on the Consumer Advocate's ROE recommendation

Given the issues discussed, Newfoundland Power submits the Consumer Advocate's ROE recommendation is not reasonable and should not be used by the Board in its determination of a fair ROE for the Company.

In addition to the issues more directly related to the Consumer Advocate's ROE recommendation, the Consumer Advocate's Submission also discusses two concepts raised by Dr. Booth during the oral hearing that are worthy of clarification: (i) KKR's acquisition of an ownership interest in the LIL; and (ii) the differences in a return on investment and a return on a security.

As provided by Concentric, there is no information on the record regarding the assumptions that KKR used about the projected ROE for the LIL over the next 50 years.[241] As such, there is no reason to believe that KKR assumed that the ROE for Newfoundland Power would remain at 8.50% over the long term.[242] Further, even if the Board were to accept that unfounded

[239] PUB-NP-067 and PUB-NP-122. Further, Maritime Electric now has had the ability to earn an additional 0.35% up to a maximum of 9.7% ROE. See UE23-04, page 3.
[240] PUB-NP-124.
[241] Concentric Transcript, June 18, 2024, page 149, line 20 to page 151, line 15.
[242] *Ibid.*

proposition, KKR's assumption would not serve as a substitute for the rigorous analysis and judgment required for the determination of a fair return.

The fair return standard requires that the return for Newfoundland Power must be comparable to those available to investors in other companies with similar business and financial risks. To this end, Dr. Booth's testimony on the difference between a return on investment and a return on security is of little importance to the Board in assessing a fair ROE for the Company using the analyses of the cost of capital experts on the record of this proceeding.[243]

4.1.2 Market Conditions

The Consumer Advocate's Submission implies that there is an inconsistency between Concentric's observation that there has been a *"fundamental shift in capital market conditions since 2021"*[244] and its statement *"…I think capital markets are more stable than they were back during the COVID period."*[245]

Newfoundland Power submits that there is no conflict between these two observations. Bond yields, interest rates and inflation are all higher now than they were when the Company's cost of capital was last determined in 2021.[246] Further, as explained by Mr. Coyne, capital markets are more stable now when compared to the peak of the COVID-19 pandemic period.[247]

243 Concentric Evidence, page 5, line 1 to page 8, line 21.
244 Concentric Evidence, page 28, line 10.
245 Concentric Transcript, June 19, 2024, page 125, lines 18-19.
246 Concentric Rebuttal, page 14. See also Dr. Booth Transcript, June 20, 2024, page 79, lines 11-15.
247 Concentric Transcript, June 18, 2024, page 125, line 14 to page 137, line 3.

Dr. Booth also appears to accept that markets have recovered since the peak of the COVID-19 pandemic period and that the fact that markets are increasing since Newfoundland Power's GRA is a factor in the Board's consideration of a fair ROE for the Company.[248]

4.1.3 Risk Assessment and Capital Structure

In its submission, the Consumer Advocate outlines Dr. Booth's evidence in respect of Newfoundland Power's business risks and capital structure. Dr. Booth recommends that the Company's equity ratio be reduced to 40% with a 7.7% ROE. Generally, this recommendation is based on Dr. Booth's conclusion that Newfoundland Power is not riskier than other transmission and distribution utilities in Canada.[249] That conclusion, as outlined in the Consumer Advocate's Submission is based, at least in part, on Dr. Booth's views on the Company's ability to earn its allowed return, that Newfoundland Power is not a small utility, and that it has minimal generation risk and reduced competition risk.[250] The Consumer Advocate also submits that any risks associated with Muskrat Falls beyond 2030 is a risk to ratepayers, not to the Company.[251]

The evidence supporting that Newfoundland Power's 45% equity ratio remains appropriate is summarized in section 3.1.3 of this submission. This includes a fulsome assessment of all factors that impact the Company's risk profile, including its operating environment, service territory demographics, the provincial economy, its energy sales and its limited cost flexibility. These factors were not fully analyzed in the Consumer Advocate's Submission.

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[248] Dr. Booth Transcript, June 20, 2024, page 74, line 4, to page 77, line 13.
[249] Consumer Advocate's Submission, page 25, lines 14-15.
[250] *Ibid.*, page 22, line 20 to page 25, line 10.
[251] *Ibid.*, page 27, lines 14-17.

Further, section 3.1.4.3 of this submission addresses the concerns with Dr. Booth's recommended approach in reducing Newfoundland Power's equity ratio from both a theoretical and practical perspective, as well as its potential impact on the Company's credit rating.

Before discussing the Consumer Advocate's submissions regarding certain factors of the Company's business risks, it is important to clarify Concentric's analysis of Newfoundland Power's capital structure and one of its conclusions that *"…Newfoundland Power has above average business risk compared to other Canadian electric utilities"* [252] which the Consumer Advocate draws attention to in its submission.'[253]

Concentric completed a fulsome capital structure and risk analysis.[254] Based on the results of its financial and business risk analyses, Concentric provided seven conclusions to support its finding that the current deemed common equity ratio for Newfoundland Power of 45% remains the minimum appropriate level given its relative financial and business risks.[255]

Newfoundland Power submits that all seven of the conclusions stated in Concentric's Evidence on the Company's risk profile must be considered by the Board in its assessment of Newfoundland Power's capital structure and ROE.

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[252] Concentric Evidence, page 78, lines 1-24.
[253] Consumer Advocate's Submission, page 28, lines 1-2.
[254] Concentric Evidence, page 52, line 1 to page 83, line 27.
[255] *Ibid*., page 83, lines 1-27.

The remainder of this section will discuss the issues raised in the Consumer Advocate's Submission related to Newfoundland Power's ability to earn its allowed ROE, its size, its generation risk and competition risk, and its power supply risk.

Newfoundland Power's ability to earn its allowed ROE is not evidence that the Company is low risk. As discussed by Concentric in its rebuttal evidence, under the regulatory compact, a utility is granted an opportunity to earn its allowed ROE, not a guarantee.[256] Concentric further provides that *"…the fact that Newfoundland Power has historically been able to earn its authorized ROE in most years through efficient and economical management does not tell us anything about the future, nor should the Company be penalized for doing so."*[257] Dr. Booth's argument that historically earned ROEs are evidence of future risk was specifically rejected by the BCUC.[258]

Newfoundland Power is objectively a small utility. Figure 36 in Concentric's Evidence demonstrates that the Company has fewer retail customers than most investor-owned electric utilities in Canada and the operating companies in the U.S. Electric utility proxy group.[259] Figure 37 in Concentric's Evidence demonstrates that with respect to net property, plant and equipment, Newfoundland Power is small in comparison to other investor-owned electric utilities in Canada and is substantially smaller than the electric utility operating companies in the U.S. Electric proxy group, except for Kingsport Power Company, Liberty Utilities (Granite State Electric) Corp., and Wheeling Power Company.[260]

[256] Concentric Rebuttal, page 41, lines 1-22.
[257] *Ibid.,* page 41, lines 5-8.
[258] *Ibid.*, page 42, line 1 to page 43, line 17.
[259] Concentric Evidence, page 61.
[260] *Ibid.*, page 62.

The small size of Newfoundland Power affects the terms of the Company's long-term first mortgage bonds issuances.[261] Investors and rating agencies consider small size and lack of economic and geographic diversification as important factors in assessing business risk.[262]

The Board has recognized the relationship between Newfoundland Power's small size and the Company's financial flexibility and has previously determined that a strong equity component is needed to mitigate the impact of the Company's relatively small size and low growth potential.[263] Newfoundland Power's small size relative to its peers continues to define its risk profile.

The Consumer Advocate's Submission also details Dr. Booth's issue with Concentric's proxy groups associated with their generation ownership compared to Newfoundland Power, in particular their nuclear generation. Concentric fully addresses this issue in its rebuttal evidence.[264] Of note, Concentric provides that the AUC recently rejected concerns from intervenors about generation ownership being higher risk, and its decision also included companies that own nuclear generation in the North American proxy group without making a downward adjustment to the return estimates for those companies.[265]

During oral testimony, Concentric also clarified Newfoundland Power's supply responsibilities to its customers, including its unique dependence on a sole supplier:

261 *Ibid.*, page 63, lines 1-12. See also Company Evidence, page 3-36, lines 6-19.
262 Concentric Rebuttal, page 8, lines 18-24 and page 45, lines 5-9.
263 Company Evidence, page 3-36, lines 15-19.
264 Concentric Rebuttal, page 20, line 5 to page 21, line 11.
265 *Ibid.*

> *"… they don't have that supply function at all, as opposed to Newfoundland Power which does have supply responsibility, they're relying on Hydro for 93 percent of its energy, that they still have the responsibility of making sure that they have enough power to meet their customers needs. In Alberta, they rely on other retail providers who are responsible for providing energy to those customers, so they are purely T&D companies."*[266]

The Concentric Rebuttal also fully addresses Dr. Booth's position that Newfoundland Power's capital recovery risk has decreased since the last litigated hearing in 2016, with the main reason being that *"alternative fuels used to compete with NP are carbon based such as heating oil.*"[267]

In summary, Dr. Booth does not recognize:

(i) The change in this risk since the Company's last GRA when the Board last approved Newfoundland Power's equity ratio. The risk that a customer may switch from electricity to fuel was not a large factor in the Company's risk profile in 2021, nor is it in 2024.[268]

(ii) Risks associated with electrification, particularly with rising electricity costs and future uncertainty of the cost of power supply. These factors can impact Newfoundland Power's energy sales through price elasticity impacts.

(iii) The fact that in addition to customer conversions from oil to electric heating, Newfoundland Power's electric heating customers are choosing to install heat pumps as a more efficient source of electric home heating.[269]

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266 Concentric Transcript, June 19, 2024, page 130, lines 6-16.
267 Concentric Rebuttal, page 43, line 18 to page 45, line 28.
268 Concentric Evidence, page 69, lines 11-25.
269 CA-NP-097.

(iv) The impact of electrification on power supply risks. There are current supply adequacy and reliability issues on the Island Interconnected System. The Company submits that the increased reliance of customers on electricity magnifies the risks associated with electrification, as opposed to potential lower competition risk reducing it.

Finally, the Consumer Advocate submits that the Rate Mitigation Plan lowers Newfoundland Power's business risk to the extent that the Company could be considered a *"lower than average risk Canadian electric utility."*[270]

This statement appears to based on an interpretation of Order No. P.U. 18 (2016). In that order the Board stated *"…the risks associated with Muskrat Falls and the negative economic outlook have not increased Newfoundland Power's business risk from average to above average at this time, compared to other Canadian utilities."*[271] Newfoundland Power submits that, in this context, to suggest that a conceived reduction in risks associated with the Muskrat Falls Project should lower the Company's overall risk profile from average to lower than average is not appropriate.

In addition, Newfoundland Power's evidence on the uncertainty that the Muskrat Falls Project has on its long-term costs and reliability are outlined in section 3.1.3.3 of this submission. The Company further addresses the Rate Mitigation Plan, as well as the outage statistics of the LIL in its first year of operation, in section 5.1.2 of this submission.

[270] Consumer Advocate's Submission, page 32, lines 15-17.
[271] Order No. P.U. 18 (2016), page 19, lines 26-29.

Newfoundland Power submits that the Consumer Advocate's commentary regarding the Company's risk profile and capital structure does not consider the fulsome evidence on the record of this proceeding. Further, the Company submits that Dr. Booth's assessment of Newfoundland Power's business and financial risk does not sufficiently assess the Company's service territory demographics, operating environment, relatively low growth potential, cost flexibility or the provincial economy.

4.1.4 Methodologies for Estimating ROE

The Consumer Advocate's Submission provides a partial quote from Order No. P.U. 18 (2016) regarding the Board's findings on the use of ROE methodologies to estimate a fair return for Newfoundland Power at that time.[272] Without full context, the quote could imply that the Board provided little weight to DCF approaches to estimate the Company's ROE in 2016.

The following provides the full findings of the Board regarding ROE methodologies in Order No. P.U. 18 (2016), which provides further perspective of the Board regarding the CAPM as well as the use of other accepted models.

> *"The Board notes that both Mr. Coyne and Dr. Booth used a combination of methodologies, primarily founded in the CAPM and DCF approaches, to arrive at a recommended return on equity in this proceeding. This is consistent with the Board's approach in Order No. P.U. 13(2013), in which the Board found that, given the financial and economic conditions at the time, the simple application of the CAPM model could not be relied upon to produce a fair return for Newfoundland Power. Instead the Board found that a broader view and assessment of other information in relation to fair return was necessary. The Board determined that primary weighting should be given to CAPM results but also looked to the results of other accepted models and other relevant evidence when determining the fair return.*

[272] *Ibid.*, page 36, lines 14-15.

> *In assessing the fair return for Newfoundland Power in this proceeding the Board notes that the experts agree that the capital market conditions are substantially similar to those in the last general rate application. The Board has also found that Newfoundland Power's overall risk profile has not changed. In this circumstance and consistent with its past approach the Board will give primary weighting to CAPM results and will consider as well other evidence in informing its determination on the fair return."*[273]

Concentric provides that it is generally accepted that using multiple methods to estimate a fair ROE is the best basis upon which to make a fair determination.[274] Regarding recent regulatory precedent, Concentric stated that *"…the AUC considered the results of the constant growth and multi-stage forms of the DCF model and the CAPM in its October 2023 decision setting the generic ROE for Alberta's electric and gas utilities, [and] the BCUC relied on the average results of the multi-stage DCF model, the CAPM, and the Risk Premium analysis in its September 2023 Decision and Order involving FortisBC Energy, Inc. and FortisBC, Inc."*[275]

4.1.5 Proxy Groups and the Use of U.S. Data

The Consumer Advocate takes issue with Concentric's U.S. proxy groups.[276] The Consumer Advocate submits that *"To the extent the Board relies on data for these proxy groups, the Board should be consistent with its past practice, and where is utilizes U.S. data apply a 50 to 100 basis point downward adjustment to results based on U.S. data where appropriate."*[277]

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[273] Order No. P.U. 18 (2016), page 27, lines 15-32.
[274] Concentric Rebuttal, page 22, line 11 to page 23, line 5.
[275] *Ibid.*, page 35, lines 9-14. See also the discussion on pages 22 to 23. Further, see Concentric Evidence, page 33, line 18 to page 47, line 5.
[276] Consumer Advocate's Submission, pages 43-45.
[277] Consumer Advocate's Submission, page 38, lines 28-30.

Both Dr. Booth and Concentric recognize that some reliance must be made upon a comparison to U.S. proxy companies due to the small number of publicly-traded, regulated electric and natural gas utility companies in Canada.[278] Further, as provided by Concentric, it is broadly accepted that the purpose of a proxy group is not to identify a group of companies that are identical to Newfoundland Power, rather those that are similar or comparable.[279]

The Concentric Rebuttal provides evidence supporting the use of U.S. data without adjustment, including recent regulatory decisions in British Columbia and Alberta as well as the views of equity investors and credit analysts.[280] With respect to the recent BCUC decision, the BCUC approved a ROE based on Concentric's average model results for its North American proxy groups.[281] In the order, the BCUC supported the use of North American proxy groups without adjustment:

> *"On balance, we find that having a proxy group of North American comparators trumps any jurisdictional or structural differences. In making this determination, we rely on the facts that financial and capital markets are highly integrated and that utility regulatory regimes in North America are sufficiently similar for the purpose of establishing a comparable ROE."*[282]

In its rebuttal, Concentric also fully addresses the issues raised by Dr. Booth regarding the use of U.S. companies and data to set a fair ROE for Newfoundland Power.[283] This information works in conjunction with the Concentric Evidence, which provides comprehensive evidence

[278] Dr. Booth Transcript, June 20, 2024, page 202, lines 16-22. See also Concentric Rebuttal, page 16, lines 4-5.
[279] See the full discussion in the Concentric Rebuttal, page 19, lines 8 to page 21, line 11. See also the Concentric Evidence, page 30, line 6 to page 31, line 10.
[280] *Ibid.*
[281] BCUC Order G-236-23, page 139.
[282] Concentric Evidence, page 28, lines 1-7.
[283] Concentric Rebuttal, page 16, line 1 to page 21, line 11.

supporting the use of U.S data without adjustment, including demonstrating that the Canadian and U.S. capital markets are highly integrated.[284]

The Company submits that it would be appropriate for the Board to rely on U.S. data without adjustment in its determination of a fair ROE for Newfoundland Power. This is reasonable given the evidence regarding the highly integrated nature of North American capital markets which has been accepted in other regulatory jurisdictions in Canada when determining utility ROEs.

4.1.6 Beta Estimates

The Consumer Advocate submits that Dr. Booth's approach to beta, and his estimates of beta, are well founded.[285] In reaching this conclusion, the Consumer Advocate relies on Dr. Booth's statements in cross examination.

Newfoundland Power submits that Dr. Booth's estimates of beta in his CAPM analysis are unreasonable. The evidence supporting the Company's submission is outlined in section 3.1.5.4 of this submission. Further, the Concentric Rebuttal provides a comprehensive analysis of its concerns with Dr. Booth's beta estimates.[286]

[284] Concentric Evidence, page 19, line 4 to page 33, line 17.
[285] Consumer Advocate's Submission, page 53, line 28.
[286] Concentric Rebuttal, page 27, line 15 to page 31, line 19.

4.1.7 Flotation Adjustment

The Consumer Advocate observes that *"Dr. Booth recommends that the Board consider questioning the advisability, and legality, of the Board routinely and automatically including a floatation adjustment of 50 basis points, when Newfoundland Power incurs no such expense."*[287]

Despite this recommendation, Dr. Booth includes an adjustment of 50 basis points in his CAPM analysis.[288] In oral testimony, Dr. Booth noted that regulators have settled on a 50-basis-point adjustment for *"every utility in Canada."*[289]

Concentric also recommends a 50-basis-point adjustment to the results of its DCF and CAPM analyses for both flotation costs and financial flexibility. Concentric provides evidence that such an adjustment remains common practice for Canadian regulators.[290] The purpose of Concentric's adjustment is to: (i) compensate the equity holder for costs associated with the issuances of equity to the operating utility; and (ii) provide the financial strength and flexibility needed to attract capital under a variety of economic and financial market conditions.[291]

As provided by Concentric, *"Because the purpose of the allowed rate of return in a regulatory proceeding is to estimate the cost of capital the regulated company would incur to raise money in the "primary" markets, an estimate of the returns required by investors in the "secondary"*

287 Consumer Advocate's Submission, page 58, lines 18-20.
288 Dr. Booth Evidence, page 49, line 8.
289 Dr. Booth Transcript, June 21, 2024, lines 17-25 and page 86, lines 1-2.
290 PUB-NP-120.
291 Concentric Evidence, page 47, lines 6-22. See also PUB-NP-120.

markets must be adjusted for flotation costs in order to provide an estimate of the cost of capital that the regulated company requires."[292]

Newfoundland Power submits that the 50-basis-point flotation adjustment remains reasonable and consistent with Canadian regulatory practice.

4.2 RECOMMENDATION #2: RANGE OF RETURN ON RATE BASE

The Consumer Advocate recommends that the band around the regulated rate of return on rate base should be set at ±6 basis points, but with any contributions to the Excess Earnings Account capped at the point where further contributions would cause Newfoundland Power's ROE to be less than the allowed ROE.

The Board has established a range of ±18 basis points around the Company's approved rate of return on rate base, which is an implied range of ±40 basis points on ROE.[293] Earnings in excess of 18 basis points above the approved rate of return on rate base are credited to the Company's Excess Earnings Account, the disposition of which is determined by the Board.

Newfoundland Power has not included a proposal related to its range of rate of return on rate base in this Application. There is no evidence on the record to suggest that the existing range of

[292] *Ibid.*
[293] Order No. P.U. 23 (2013).

rate of return on rate base is unreasonable.[294] Rather, the evidence suggests that the range is reasonable.

The Company's range of rate of return on rate base is within the scope of ranges approved for electric utilities in Canada. It is slightly broader than the ranges used in Nova Scotia and Prince Edward Island,[295] and significantly narrower than the ranges used for electric utilities in Alberta, British Columbia, and Ontario.[296]

In its review of Newfoundland Power's deferral accounts, the Board's expert, Brattle, did not raise an issue with the size of the range. Brattle commented only on the fact that it would be beneficial if the Excess Earnings Account was based on Newfoundland Power's approved ROE rather than its return on rate base.[297]

The use of a range encourages efficiency, as utilities that prudently manage their costs may be able to earn at the higher end of the range as compared to those that do not. This has been recognized by the Newfoundland and Labrador Court of Appeal in the Stated Case.[298] It has also

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[294] Although the Booth Evidence recommends a 50/50 earnings sharing mechanism, Dr. Booth indicated on cross-examination that he did not conduct an analysis on earnings sharing mechanisms when preparing the Booth Evidence. See Dr. Booth Transcript, June 20, 2024, page 146, lines 1-7: "*Q: … I want to get a flavor for what sort of analysis you did on earnings sharing mechanisms for this report. A: Well I'll give you a clear answer on that, nothing.*"

[295] Nova Scotia Power has a range of ±25 basis points; Maritime Electric has a range of ±35 basis points. See the Brattle Deferral Account Report, page 19. See also IRAC Order UE23-04, April 24, 2023, page 13.

[296] Alberta, British Columbia and Ontario have ranges of ±200-500 basis points, ±150 basis points, and ±300 basis points, respectively. See Concentric Rebuttal, pages 10-11.

[297] Brattle Deferral Account Report, page 20.

[298] Stated Case, para. 69.

been recognized by the Board. The Board has described the use of a range as giving a utility "*motivation to strive*."[299]

Further, the larger the range, the more the utility is incented to find efficiencies. When revising the range of return on rate base to its current ±18 basis points, the Board observed that the expanded range would "*provide an incentive for the company to improve productivity*."[300]

During the hearing, Concentric was questioned about the range, also referred to as a "deadband." Concentric indicated that "*the broader the dead band (sic), the stronger that incentive,*" and that although it had not been asked to make a recommendation on the range in this Application, that *"we would typically recommend something larger than 50 basis points for those reasons, to make sure it's a strong enough incentive to be effective."*[301]

The Consumer Advocate's suggestion to narrow the range would discourage efficiency. Mr. Coyne expressed his opinion on a narrower range:

> *"Q. In principle, there's no reason why it couldn't be lower?*
>
> *A. Well, if it's lower, then I think you're really diminishing – if you want – you're looking for an incentive there, then you're really making it a minimal incentive compared to something that's broader. Also, it's generally viewed as being good public policy to make it a symmetric dead band (sic), so it's effective on both the low side and the upside, to be fair to both consumers and to the company. And you can see in Canada, these dead bands (sic) are much broader by way of examples than they are currently here."*[302]

[299] Order No. P.U. 1991-6.
[300] Order No. P.U. 36 (1998-99), page 70.
[301] Concentric Transcript, June 18, 2024, page 178, lines 3-4 and lines 18-22.
[302] *Ibid.*, page 178, line 24 to page 179, line 13.

The Company submits that the Consumer Advocate's recommendation of a range of ±6 basis points is not consistent with Canadian regulatory practice. It would also serve to diminish the incentive for the Company to find efficiencies in its operations.

4.3 RECOMMENDATION # 3: OPERATING COSTS

The Consumer Advocate recommends that for 2025 and 2026, proposed operating expenses should be reduced by $2.5 million and $5 million, respectively.

The recommendation does not consider the fulsome evidence on the record of this proceeding regarding Newfoundland Power's operating costs. The Company also submits that the reasonableness of its operating costs has been assessed on a "gross" basis during this proceeding, which is consistent with past Newfoundland Power GRAs.[303] The record of this proceeding has generally referred to "gross operating costs" as "operating costs", which is also the case in this submission.

Table 1 provides the changes in Newfoundland Power's operating costs over the 2022 to 2026 forecast period.[304] The table also provides the Company's operating costs excluding the costs

[303] Company Evidence, pages 2-29 to 2-36. Gross operating costs exclude amortizations and General Expenses Capitalized transfers. A reconciliation of the gross operating costs to the operating costs included in the 2025 and 2026 test year revenue requirements is provided in the Company Evidence, page 4-4.

[304] NLH-NP-029, Attachment A.

related to the IFRS conversion, which is a large non-routine cost.[305]

Table 1:
Newfoundland Power's Operating Costs
2022 to 2026 Forecast
($000s)

	2022A	**2023A**	**2024F**	**2025F**	**2026F**
Operating Costs	70,530	73,036	76,838	79,083	81,603
Change		3.6%	5.2%	2.9%	3.2%
Operating Costs, excluding IFRS	70,530	73,036	75,663	78,088	81,108
Change		3.6%	3.6%	3.2%	3.9%

Newfoundland Power's operating costs are forecast to increase, on average, by 3.9% over the 2022 to 2026 forecast period, not by 5.9% as provided by Table 5 in the Consumer Advocate's submission.[306] Excluding the costs related to the IFRS conversion, the Company's operating costs are forecast to increase, on average, by 3.7% over the 2022 to 2026 forecast period, within a range of 3.2% to 3.9%.

The Consumer Advocate's analysis also does not consider key evidence supporting Newfoundland Power's operating costs, such as:

(i) Labour cost inflation.[307] Average annual labour inflation of 4.1% over the 2022 to 2026 forecast period primarily reflects collectively bargained base wage increases

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305 IFRS conversion costs are outlined in PUB-NP-022. As provided by the Settlement Agreement, costs associated with the conversion to IFRS will be deferred and excluded from the 2025 and 2026 test year revenue requirements.
306 23.4% cumulative increase in Table 5 of the Consumer Advocate's Submission / 4 years = 5.9%.
307 The evidence supporting the Company's labour cost inflation is summarized in *Section 3.2.2 Labour Costs* of this submission.

negotiated by the Company and the IBEW. Further, the annual increases in Newfoundland Power's labour costs are comparable to the other Atlantic Canadian utilities over the same period;

(ii) External market cost pressures beyond the GDP Deflator, such as those related to insurance and computing equipment and software;[308]

(iii) Changes in operating requirements, such as those related to vegetation management and other company fees, which includes costs related to regulatory proceedings; [309] and

(iv) Newfoundland Power's cost performance metrics.[310] In particular, the inflation-adjusted operating cost per customer of the Company's U.S. peer group increased by 15.1% over the 2013 to 2022 period, compared to Newfoundland Power's 9.5% decrease over that period.

More generally, the Consumer Advocate's submissions do not address the cost increases in the global utility sector that are beyond the measures of CPI and the GDP Deflator. For example, since 2020 the cost of a substation power transformer has nearly doubled, the average cost of wood poles used for distribution and transmission lines has increased by 20%, the average cost

[308] The evidence supporting these costs is summarized in *Section 3.2.3 Other Costs* of this submission.
[309] *Ibid.*
[310] The evidence supporting the Company's operating cost metrics is summarized in *Section 3.2.1 Balancing Costs and Service* of this submission.

of pole mounted distribution transformers has increased by nearly 60%, and the average cost of commonly used overhead conductors has increased by 30 to 50%.[311]

Finally, the Consumer Advocate's commentary ignores the legislative requirement that Newfoundland Power must have the opportunity to recover its reasonable costs.[312] The Consumer Advocate provides no evidence to indicate that any cost item included in the Company's 2025 and 2026 test year operating costs is unreasonable.

For these reasons, Newfoundland Power' submits that the Consumer Advocate's recommendation regarding a reduction in the Company's operating costs is not reasonable.

4.4 RECOMMENDATION #4: SHORT-TERM INCENTIVE PLAN

The Consumer Advocate recommends that beginning January 1, 2025, all future payments associated with Newfoundland Power's short-term incentive plan for executives should be paid by the shareholder.

4.4.1 Executive Compensation Generally

In support of this recommendation, the Consumer Advocate suggests that Newfoundland Power is distinct from other companies in the Canadian Commercial Industrial comparator group, as the comparator group contains a variety of types of businesses, and the challenges they each face are different. The Consumer Advocate further suggests that the fact that Newfoundland Power has similarly titled executive positions does not mean that the requirements of the roles are the same.

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311 PUB-NP-047.
312 Section 80(2) of the *Public Utilities Act*.

These points are not contested, rather, they are accounted for, and normalized, through the use of Hay points. Newfoundland Power, and its executive compensation consultant, use Hay points to evaluate the Company's executives against executives with similar skills, efforts and responsibilities.

Mr. Ma provided evidence as to how Hay points are used to normalize differences between organizations within the comparator group:

> *"Q. Can you explain how you used assigned Hay points in your analysis?*
>
> *A. Yes, of course. Once we, each position is assigned with the Hay points, we can then compare the compensation level of the comparator at the same Hay points; therefore the size of the comparator organizations, whether they are larger or smaller, is not relevant because the positions are compared using the Hay points. As an example, the CEO at Newfoundland Power would not be directly compared to a CEO of a large corporation in the comparator group. For example, Berrick (sic) Gold, instead, we will benchmark the CEO against the comparator position of a similar scope and responsibility using the Hay points."*[313]

4.4.2 Short-Term Incentives

The Consumer Advocate refers to the approach to executive compensation in Nova Scotia, where the *Public Utilities Act* (Nova Scotia) specifies that bonuses or incentive compensation are not to be recovered in customer rates. However, it is not typical in Canada for recovery of executive compensation costs for investor-owned utilities to be set by public policy. Outside Nova Scotia, including in this province, regulators approve utility compensation practices and recovery in customer rates on the basis of whether they are reasonable and benefit customers.

[313] Mr. Ma Transcript, June 25, 2024, page 10, line 16 to page 11, line 8.

The Consumer Advocate suggests that no amount of short-term incentive should be recovered from customer rates, as "*the incentive scheme is not designed to target customer benefits*."[314] Newfoundland Power disagrees. The Company has provided evidence on the record as to the customer benefits associated with the short-term incentive targets.[315]

Newfoundland Power's short-term incentive plan has been reviewed by the Board in previous proceedings and has been found to be reasonable.[316] In addition, the Board has specifically recognized that customers benefit from short-term incentives: *"The Board agrees that customers do benefit in the long-term when efficiencies are achieved and agrees that the use of STI payouts is an appropriate means of encouraging such efficiencies."*[317]

Where the Board has recognized a shared benefit to shareholders and customers, it has ordered partial recovery accordingly. For example, all short-term incentive payouts above 100% of target are charged to non-regulated expenses and recovered from the Company's shareholder.[318] In recognition of a further shared benefit, the Board has directed that 50% of the components for earnings, regulatory performance, and cash flow be charged to non-regulated expenses.[319]

The Board's approach to recovery of short-term incentive amounts is reasonable and consistent with other Canadian regulators.[320]

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314 Consumer Advocate's Submission, page 69, line 11.
315 PUB-NP-147.
316 Order No. P.U. 18 (2016), page 43, lines 13-14.
317 Order No. P.U. 19 (2003), page 96.
318 *Ibid.*
319 Order No. P.U. 18 (2016) and Order No. P.U. 3 (2022).
320 Short-term incentives in Alberta are recovered from customer rates up to 100% of target, as with Newfoundland Power. In Ontario and Prince Edward Island, short-term incentives are fully recovered from customers.

The Consumer Advocate has not presented any evidence to suggest that no recovery of short-term incentive costs in customer rates is reasonable, nor has evidence been presented to suggest it has been ordered by any regulator in Canada.

The reasonableness of the Company's executive compensation is discussed in section 3.3 of this submission.

4.5 RECOMMENDATION #5: EXECUTIVE SALARIES

The Consumer Advocate recommends that beginning January 1, 2025, 20% of Newfoundland Power's executives' base salaries should be paid by the shareholder.

The Consumer Advocate points again to Nova Scotia, where the recovery of executive compensation is specifically addressed in legislation. That is not the case in this province and is not typical in other regulatory jurisdictions in Canada. The Consumer Advocate notes that it could be an "overreach" for the Board to determine executive salaries.[321] Newfoundland Power agrees. Executive salaries are determined by the Company's Board of Directors, based on market information provided by its compensation consultant. This approach is standard in Canada and there is no suggestion that this practice is inappropriate. Salaries are set within the Company's compensation policy, including that base salaries be within ±15% of the market median. The Board has held that the Company's executive compensation policy is reasonable.[322]

[321] Consumer Advocate's Submission, page 70, line 33.
[322] See, for example, Order No. P.U. 19 (2003), Order No. P.U. 43 (2009) and Order No. P.U. 18 (2016).

Newfoundland Power is entitled to recovery of its reasonable costs. The Company provided expert evidence that executive base salaries are reasonable. No evidence was provided by the parties that the base salaries for executives are unreasonable. Base salaries for three of the four executives are within 2% of market median (i.e. the 50th percentile) and base salary for one executive is 16% below market median.[323] These values are presented with the caveat that Company pay data reflects 2024 salaries, while market data reflects 2023 salaries. As such, it is reasonable to assume that all 2024 executive base salaries would be at or below market median, if compared to 2024 market data.

The Consumer Advocate bases the recommended 20% reduction in recovery of base salary on a comparison of the base salary of the President and Chief Executive Officer of the Company with the President and Chief Executive Officer of Hydro.[324] There are a number of issues with proposing to tie the salary of one executive to the salary of an executive at another company. First, this effectively recommends basing recovery of Newfoundland Power salaries on a comparator group with a sample size of one. This is arbitrary. Second, the roles of the various executive at each company are not equivalent. For example, Newfoundland Power has an executive team of four. Hydro has an executive team of 9. Third, as more fully discussed in section 5.3 of this submission, compensation policy is not the same for a crown corporation as it is at an investor-owned utility.

Although the Consumer Advocate expresses the opinion that the overall compensation received by executives is generous, and that it would be "fair" to require some contribution from the

[323] Korn Ferry Report, page 9, table 2.
[324] Consumer Advocate's Submission, page 71, footnote 87.

Company's shareholder, the Consumer Advocate has not demonstrated that the base salary costs are unreasonable or presented any evidence to suggest denial of the costs by the Board would be appropriate. The reasonableness of Newfoundland Power's executive compensation is more fully discussed in section 3.3 of this submission.

4.6 RECOMMENDATION #6: INSURANCE COSTS

The Consumer Advocate recommends that insurance costs included in the Company's proposed 2025 and 2026 revenue requirements be disallowed. There is no evidence to support this recommendation. In fact, the evidence provides that insurance costs are prudently incurred costs that provide benefits to customers.[325]

In support of the recommendation that the Company's insurance costs be disallowed, the Consumer Advocate states that insurance costs are not provided for in Maritime Electric customer rates. This is incorrect. In Order UE09-02, IRAC disallowed, for the purpose of determining Maritime Electric's regulated revenue requirement, Fortis Inc. *head office administrative costs* charged to Maritime Electric. The Order did not disallow Maritime Electric's insurance costs.[326]

Information filed as part of Maritime Electric's *2023-2025 General Rate Application* and subsequent Order UE23-04, clearly demonstrates that insurance costs are included in its revenue

[325] Section 3.2.3 of this submission provides a discussion on Newfoundland Power's insurance costs.

[326] *Maritime Electric's 2023-2025 General Rate Application ("UE20946"),* Exhibit-M-5 MECL, Responses to Interrogatories from Commission Expert – London Economics Int LLC, IR-13 provides the non-regulatory expenses excluded from revenue requirement. See also Exhibit-M-7 MECL Responses to Interrogatories from Commission Staff, IR-42 for additional information related to Fortis Inc. Head Office Costs excluded from revenue requirement.

requirement.[327] Newfoundland Power submits that the Board disregard this recommendation by the Consumer Advocate.

4.7 RECOMMENDATION #7: WHOLESALE RATE

The Consumer Advocate recommends that a new wholesale rate should be implemented on January 1, 2025 consistent with the Wholesale Rate Settlement Agreement, and that customer rates should be re-based according to the new wholesale rate as part of this GRA.

Newfoundland Power agrees with the Consumer Advocate that, consistent with the Wholesale Rate Settlement Agreement, a new wholesale rate should be implemented for January 1, 2025. The Company notes that the Wholesale Rate Settlement Agreement provides for the rebasing of power supply in Newfoundland Power's flow-through application as opposed to the GRA. As outlined in Appendix B, the Company's compliance application in relation to its 2025/2026 GRA could incorporate revisions to the proposed 2025 and 2026 revenue requirements for the rebasing of power supply costs provided by the Board's order on the Company's flow-through application.[328]

4.8 RECOMMENDATION #8: LOAD RESEARCH STUDY

The Consumer Advocate recommends the Board direct Newfoundland Power to give high priority to its ongoing load research study.[329]

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[327] *UE20946, Exhibit-M-5 MECL Responses to Interrogatories from Commission Expert – London Economics Int LLC, IR-13;* Exhibit-M-7 MECL Responses to Interrogatories from Commission Staff, IR-28 and IR-42. See also UE20946, Section 5.0 Cost of Service and Projections, page 40, table 5-2; page 51, line 31 to page 52, line 9; and table 5-8; as well as, Appendix C, page 2, table C-1; and Exhibit M-5(g) – IR-17-I Chart 3-1 GRA Supporting Tables and Schedules.

[328] Appendix B, page B-2.

[329] Consumer Advocate's Submission, page 87, lines 1-2.

Newfoundland Power provided an update on its load research study as part of the 2025/2026 GRA.[330] In its update, the Company outlined the work completed in the load research study to date and outlined the work to be completed in 2024 and future years. Meters are scheduled to begin to arrive in September which will permit data collection during the 2024-2025 winter season.[331] The Consumer Advocate's recommendation for Newfoundland Power to give high priority to the ongoing load research study is consistent with the Company's ongoing efforts.[332]

4.9 RECOMMENDATION # 9: NEW GENERAL SERVICE CLASS

The Consumer Advocate recommends that the Board direct Newfoundland Power to work with the Consumer Advocate to establish a new General Service customer rate class (i.e. Rate 2.5) for two mining customers served by the 66 kV transmission system and Memorial University. The Consumer Advocate also recommends adjusting the Company's cost of service methodology, Schedule of Rates, Rules & Regulations, and CIAC Policy to accommodate the new rate class.[333]

Newfoundland Power bases any proposal to change its customer rate structures on comprehensive reviews. The Company, in consultation with the Consumer Advocate, Hydro, and the Board, is currently in the process of conducting a comprehensive review of its customer rates.[334] The results of the comprehensive review will establish whether the addition of any new customer rate classes is appropriate. The addition of a new customer rate class and changes to

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330 PUB-NP-169.
331 U-08 and U-11.
332 Company Rebuttal, page 21 line 9 to page 22 line 4.
333 Consumer Advocate's Submission, page 87, lines 4-20.
334 Newfoundland Power filed its *Load Research and Rate Design Framework* with the Board on December 30, 2022. An update regarding the Rate Design Review was provided to the Board as part of the Company's *2023 Annual Report to the Board* as directed by the Board. A copy of the update was provided in PUB-NP-169.

Newfoundland Power's cost of service methodology, Schedule of Rates, Rules & Regulations, and CIAC Policy prior to the completion of the ongoing rate design review would be premature.[335]

4.10 RECOMMENDATION # 10: STREET AND AREA LIGHTING CLASS

The Consumer Advocate recommends that customer rates for the Street and Area Lighting class should be increased to 100% of the cost of supply. This recommendation was fully addressed in the Company Rebuttal.[336]

The Company submits that the recommendation has a limited scope as it does not address other classes, including the Domestic customer class which also has a revenue-to-cost ratio of less than 100%. Further, the recommendation does not address Board direction that it is not necessary to achieve a 100% revenue-to-cost ratio for all classes and that it takes no exception to a variance of up to 10%, and it is not consistent with past practice of the Board.

4.11 RECOMMENDATIONS #11 AND # 12: RETAIL RATES

The Consumer Advocate also recommends that current customer rates be revised in this GRA to better reflect marginal costs.

Newfoundland Power submits revising customer rates in this manner is not appropriate at this time. The recommendation is not supported by a comprehensive review, including what impact

[335] Company Rebuttal, page 36, line 15 to page 38, line 13.
[336] Company Rebuttal, page 22, line 6 to page 23, line 5.

the rate design review could have on customers and system costs. The Company is currently undertaking such a review, which the Consumer Advocate is involved in.

Mr. Comerford addressed this recommendation, including what factors need to be considered when making changes to customer rate designs:

> *"Mr. Bowman is recommending changes in Newfoundland Power's rate designs while the company is undertaking a rate design review. The rate design review is being completed in consultation with the Board, the Consumer Advocate and Hydro. Newfoundland Power has also engaged a consultant to assist in rate design review. In addition to changes in marginal energy costs, there are several other factors that need to be considered when making changes to customer rate designs. These include potential changes to basic customer charges and demand charges that may also be appropriate. Changes in customer rate classes will also be considered as a part of the review. Changes in customer rate designs require input from customers. Similar to the last rate design review, the company's ongoing review will include customer engagement to assess the acceptability of any changes to customer rate designs. Finally, changes in customer rate designs that are introduced without a comprehensive review could have unintended consequences. For example, Mr. Bowman's recommendation to redesign the domestic rate to include a load [sic] tail-block energy rate, could cause peak demand on the electricity system to increase at a time when the electricity system is capacity constrained. Changes in rate design should follow a comprehensive review which the company is in the process of conducting."*[337]

Further evidence supporting Newfoundland Power's submission on this recommendation is outlined in the Company Rebuttal.[338]

4.12 RECOMMENDATION #13: AMI

The Consumer Advocate recommends that the Board direct the Company to undertake a study on AMI and that the study should be completed and filed with the Board by year-end 2024.

337 Mr. Comerford Transcript, June 27, 2024, page 69, line 9 to page 70, line 16.
338 Company Rebuttal, pages 18 to 21.

Newfoundland Power's position on this recommendation is fully addressed in the Company's Rebuttal.[339] As re-iterated by Mr. Chubbs during cross examination, the implementation of AMI technology is not least cost for customers at this time.[340]

The Consumer Advocate's recommendation also fails to recognize that there is more than one alternative to reduce demand, which is a key potential benefit of AMI technology, and all alternatives must consider the system demand curve on a peak day. The Company has engaged The Posterity Group to complete a market potential study that will examine opportunities for electrification, energy efficiency and demand response, including dynamic rate design, which is underway and is anticipated to be completed by the end of September 2024.[341] This will provide an updated estimate of the potential demand response benefits of rate design and compare that to other alternatives.

The evidence provides that a separate AMI study, as recommended by the Consumer Advocate, is not necessary and Newfoundland Power submits that would disrupt the Company's current efforts to determine the least-cost options to manage demand on the Island Interconnected System.

4.13 RECOMMENDATION #14: DISTRIBUTION PLANNING

The Consumer Advocate recommends the Board direct Newfoundland Power to develop a distribution planning guideline and five-year distribution expansion plan that gives full

339 Company Rebuttal, pages 46-49.
340 Mr. Chubbs Transcript, June 26, 2024, pages 129-135.
341 CA-NP-034.

consideration to costs, quantification of project risks and service improvements, the environment and government net-zero emissions efforts, the value customers place on service improvements, behind-the-meter alternatives and the potential for stranding of hard infrastructure alternatives.[342]

Newfoundland Power's distribution planning process and annual capital budget process ensure that the Company's distribution system is managed and operated in a manner that would result in power being delivered to customers at the lowest cost, in an environmentally responsible manner, consistent with reliable service in accordance with the EPCA.[343]

Newfoundland Power's current distribution planning process adequately addresses the Company's distribution planning requirements. This includes Newfoundland Power's *Distribution Planning Guidelines* which outline the technical criteria and principles for planning the distribution system. The Company's distribution planning is also informed by *Distribution Planner's Manual* produced by the Distribution Line Asset Management Interest Group for the Centre for Energy Advancement through Technological Innovation. The *Distribution Planner's Manual* is a comprehensive source of industry standard distribution planning practices and guidelines available to the 36 participating electric utilities, including Newfoundland Power.[344]

Newfoundland Power's annual capital budget is comprehensively reviewed by the Board each year. Where applicable, distribution projects proposed in the capital budget consider costs, reliability, alternatives, risks, asset stranding, and the environment. The Company's Capital

[342] Consumer Advocate's Submission, page 87 line 40 to page 88 line 2.
[343] EPCA, Section 3(b)(iii).
[344] Company Rebuttal, page 45, lines 1-16.

Budget Application includes a five-year capital plan which is updated annually to reflect anticipated capital requirements in the upcoming five-year period.[345]

Newfoundland Power's distribution planning processes, documentation, and participation in industry organizations with peers ensures proper planning of the distribution system. The Board's annual review of the Company's capital budget ensures capital expenditures associated with planning the distribution system are appropriate. Development of a new distribution planning guideline and five-year distribution expansion plan, as recommended by the Consumer Advocate is not necessary to ensure Newfoundland Power's distribution system is planned and managed in a manner consistent with the EPCA.

4.14 RECOMMENDATION # 15: TARGETING RELIABILITY

The Consumer Advocate recommends that the Board should direct the Company to target a reliability level that is consistent with the Canadian average or otherwise submit evidence that a target reliability level that is 40% better than the Canadian average is consistent with the provision of least-cost service.

Newfoundland Power's reliability performance has been reasonably consistent over the past decade. During that period, the average frequency of outages experienced by customers has been consistent with the Canadian average over normal operating conditions. The average duration of outages experienced by Newfoundland Power's customers has been approximately 40% better than the Canadian average under normal operating conditions.[346] As the frequency of

[345] PUB-NP-045.
[346] Company Rebuttal, page 40, lines 12-19.

Newfoundland Power's customer outages is consistent with the Canadian average, the Consumer Advocate's recommendation implies that the Company should permit its response to customer outages to degrade from the response times customers have experienced over the past decade.

The service reliability experienced by customers reflects both the condition of the electrical system and the Company's operational response. In Newfoundland Power's view, the frequency of outages is most reflective of the condition of the electrical system, while the duration of outages is most reflective of the Company's operational response.[347]

An efficient response to customer outages minimizes the length of an outage experienced by a customer and minimizes the amount of labour costs associated with responding to the outage. Establishing a target aimed at degrading current levels of reliability will result in longer outages for customers compared to what they currently experience. Purposefully targeting lower reliability does not necessarily equate to lower costs. This was explained by Mr. Chubbs:

> *"This idea that it's a trade off that we can turn the dial on reliability down to save cost…when you think practically about how you actually reduce reliability for customers, it looks like increase cost…It looks like again building substandard lines, or not maintaining your lines, and in responding inefficient, unplanned, fashion at higher cost. So, I think that, you know, to go and ask customers would you like to experience less, a less reliable service at a lower cost is a false premise, right, because I'm not sure that that's something that Newfoundland Power could deliver on. We feel that we are providing an appropriate level of reliability for our customers, and that is least cost, that is our view..."*[348]

The Consumer Advocate's expert, Mr. Bowman, also acknowledges that a less reliable system can be costlier to maintain than a reliable system:

[347] PUB-NP-040.
[348] Mr. Chubbs Transcript, June 26, 2024, page 108 line 16 to page 109 line 10.

> *"A utility is required to maintain its asset base. If it fails to do so, there will be increased risk of injury to the public and utility staff, increased risk of environmental degradation, increased operating and maintenance costs, and a decline in reliability performance. Depending on the situation, the cost to replace or refurbish an asset might be exceeded by the increase in operating and maintenance cost if the asset is not replaced or refurbished."*[349]

The Consumer Advocate takes the position that the value customers place on reliability of electricity service will be reduced in the future as customers who own electric vehicles will have battery storage devices on site.[350] In Newfoundland Power's view, customers are relying more than ever on the reliability of the electricity system. This is due to customer electrification activities, including oil to electric heating conversions, use of electric vehicles, and working from home.[351] The Consumer Advocate's recommendation to target lower reliability is contrary to customers' increased reliance on electricity.

The Consumer Advocate also states that the Board should reduce Newfoundland Power's capital programs relating to technology and automation.[352] The Board has recognized the benefits of capital expenditures associated with automation. In Order No. P.U. 36 (2021) the Board stated:

> *"The Board is satisfied, based on the evidence, that the proposed capital expenditures for distribution feeder automation are justified, appropriate and necessary to ensure the delivery of power to customers at the lowest possible cost consistent with reliable service."*[353]

Challenges such as aging infrastructure, more frequent weather events, uncertainties in supply reliability, and growing public reliance on electrification highlight the need to maintain system

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[349] NP-CA-038.
[350] Consumer Advocate's Submission, page 84, lines 24-25.
[351] Mr. Chubbs Transcript, June 26, 2024, page 15, lines 4-10.
[352] Consumer Advocate's Submission, page 84, lines 44-45.
[353] See Order No. P.U. 36 (2021), page 27, lines 24-27.

reliability levels comparable to those experienced by customers over the past decade. The Company submits that intentionally reducing system reliability is imprudent. Furthermore, reducing capital or operating budgets to achieve a specific reliability metric would undermine the Company's ability to maintain current reliability levels, increase pressure on customer rates, and conflict with the goal of providing least-cost, reliable service to customers.[354]

Newfoundland Power operates its electrical system in a manner that provides least-cost, reliable service to customers.[355] The Consumer Advocate has not provided evidence or referenced any studies that would validate the recommendation to target a lower reliability level to save costs. The Consumer Advocate's expert, Mr. Bowman, acknowledges that a less reliable electricity system can be more costly to operate. As a result, the Board should not accept the Consumer Advocate's recommendations in relation to reliability targets.

4.15 RECOMMENDATION #16: MEMORIAL UNIVERSITY AS A PUBLIC UTILITY

The Consumer Advocate recommends that the Board direct the Company to undertake a study to determine whether Memorial University qualifies as a public utility under the *Public Utilities Act*. Newfoundland Power submits that this issue is outside the scope of this Application. Further, the Company submits that the determination of what entities meet the definition of public utility, as the term is defined in the *Public Utilities Act,* rests with the Board as the corporation responsible for the general supervision of public utilities in the province. The

[354] PUB-NP-148.

[355] This is underpinned by Newfoundland Power's capital planning process which results in the justified capital expenditures included in the Company's annual capital budget applications. The Board has recognized that fully justified capital expenditures contribute to the delivery of least-cost service to customers. See Order No. P.U. 7 (2002-2003), page 31.

determination does not rest with Newfoundland Power. The Company would participate in any review initiated by the Board, in such manner as the Board may request or allow.

SECTION 5: REPLY TO HYDRO'S SUBMISSION

Hydro's submission focuses on two components of the Application proposals: Newfoundland Power's ROE of 9.85% and its operating costs, including executive compensation.

Hydro's submissions related to the Company's ROE and operating costs focus on a portion of the evidence rather than providing a fulsome analysis of these issues. The Board is required to make determinations on the basis of the evidence before it, and to apply tests that are consistent with generally accepted sound public utility practice. It is through this lens that the Board should consider Hydro's submission.

Further, the Company notes that Hydro has a conflict of interest with respect to Newfoundland Power's ROE. As discussed in section 5.1.3 of this submission, Hydro receives the same ROE as Newfoundland Power by virtue of an Order in Council. As such, the Board should consider Hydro's direct interest in Newfoundland Power's ROE before giving any weight to Hydro's submission on the Company's ROE.

5.1 RETURN ON EQUITY

Hydro submits that Newfoundland Power has not demonstrated that an increase in its ROE is needed to meet the fair return standard. Hydro's submission is primarily based on an assessment of the Company's business risks, along with high-level observations regarding market conditions and comparator groups. Hydro's submission also includes a discussion on the impact that Newfoundland Power's ROE has on third parties, including Hydro, for the Board's consideration.

Newfoundland Power observes that while Hydro provides a number of submissions related to the Company's business risks, Hydro does not make a submission regarding Newfoundland Power's 45% equity ratio.

5.1.1 Hydro's ROE Analysis

Hydro's focus on Newfoundland Power's business risks to inform its submission on the Company's ROE provides for an incomplete analysis. While Newfoundland Power's business risk profile is a factor that is relevant to the Board's consideration of a fair return, primarily through the Company's capital structure, there are a number of other key elements that the Board must consider in its assessment of a fair ROE for Newfoundland Power.[356]

The key elements to address for a fulsome assessment of the Company's ROE are: (i) market conditions; (ii) Newfoundland Power's overall risk profile, which includes financial risks along with business risks; (iii) methodologies for estimating ROE; (iv) the selection of proxy groups and use of U.S. data; and (v) consideration of trends in approved returns in other Canadian jurisdictions.[357]

During cross-examination by counsel for Hydro, Mr. Coyne confirmed that business risk is not the only factor in determining an appropriate ROE:

> *"Q: I had asked you if you could just imagine that the only factor was the business risk and there's no change in Newfoundland Power's business risk over that overall period of time, so there would seem to be no reason to change the return on equity over that period of time if that were the only factor, and I asked you if that was the case. And what I take*

[356] See, for example, Order No. P.U. 18 (2016), pages 10-40.
[357] *Ibid.*

> *what you've told me is that it's hard to do that because you also have to take account of other changes in the markets that investors look at.*
>
> *A: Well, yeah, my simple answer is no and the reason my answer is no is because you would be ignoring all the other data that goes into determining a proper return and much more goes into it than just a simple examination of business risk."*[358]

The evidence supporting Newfoundland Power's submission on all elements impacting the determination of a fair ROE is provided in section 3.1 of this submission. While Hydro's submission references market conditions and comparator groups, it does not provide sufficient assessments of these elements to support its submission on the Company's ROE. In summary:

(i) Hydro's submission ignores changes in market conditions since Newfoundland Power's last GRA. Concentric has provided evidence that interest rates on Canadian government and utility bonds are substantially higher than they were in 2021, in support of its recommendations on the Company's ROE.[359]

(ii) Hydro highlights the use of a North American proxy group to determine Newfoundland Power's ROE;[360] however, its submission does not provide any evidence as to why the use of the North American proxy group is not appropriate or reasonable.

Finally, the Company provides the following observations with respect to Hydro's comment that Concentrics's ROE recommendation of 9.85% is only 5 basis points higher when compared to its 9.80% ROE recommendation in 2021:

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[358] Concentric Transcript, June 19, 2024, page 38, line 8 to page 39, line 1.
[359] See section 3.1.3 of this submission for a discussion on market conditions and risk.
[360] Hydro's Submission, page 6, lines 10-12.

(i) Concentric's ROE recommendation is 135 basis points higher than Newfoundland Power's existing ROE of 8.50%; and

(ii) In addition to Concentric's standard ROE estimation models results, Concentric also presented its results in this GRA using only the Multi-Stage DCF model, the CAPM with a historical market risk premium, and the Risk Premium model.[361] This provides a more conservative estimate of the cost of equity for Newfoundland Power in this GRA.[362]

5.1.2 Business Risks

Hydro's submissions regarding Newfoundland Power's business risks are primarily related to the cost and reliability implications of the Muskrat Falls Project.

Hydro submits that the Rate Mitigation Plan has removed uncertainty in the near term with respect to costs and rate impacts related to the Muskrat Falls Project, and that recent performance of the LIL, at a minimum, does not worsen Newfoundland Power's business risk.

As noted by Mr. Murray during cross-examination, the Board must look at the long-term outlook for Newfoundland Power and the electricity sector, as well as the risks the Company is exposed to over the long-term, when considering the Application.[363] Mr. Coyne also provided that a long-term outlook is fundamental from investor's perspective.[364] Newfoundland Power's

[361] Concentric Evidence, page 3, line 13 to page 4, line 12.
[362] *Ibid.*
[363] Mr. Murray Transcript, June 13, 2024, page 162, lines 18-24.
[364] Concentric Transcript, June 18, 2024, page 59, line 22 to page 60, line 19.

positions on the uncertainty the Muskrat Falls Project has on its long-term costs and reliability is fully outlined in section 3.1 of this submission.

The Rate Mitigation Plan

The Rate Mitigation Plan ensures a period of sustained rate increases associated with Hydro's operations for a six-year period, but does not provide any visibility into mitigation or customer rates associated with the Muskrat Falls Project or Hydro's costs beyond 2030.[365] The Muskrat Falls Project is a long-lived asset. New sources of generation are anticipated to be put in service by Hydro post-2030 at a significant cost.[366] As a result, Mr. Coyne's view that the Rate Mitigation Plan is a "stop-gap measure" remains reasonable.

Mr. Coyne also noted during cross-examination that the implications of Muskrat Falls Project cost recovery extend beyond 2030:

> *"…So, I think you can't – you can't just look at these six years. It's a longer-term problem than that and it's a bigger problem than that. So, I don't think that the parties that you've mentioned have come together yet to sufficiently meet the challenges of the entirety of the problem."*[367]

Reliability of the LIL

Hydro refers to the LIL's Equivalent Forced Outage Rate of 2.70% in its first year to demonstrate reliability. Hydro's submission compares this data point with the fact that 2% of outages to Newfoundland Power's distribution customers during the 2019-2023 period were

[365] See section 3.1.3.3 of this submission.
[366] Company Evidence, pages 3-30-to 3-34.
[367] Concentric Transcript, June 18, 2024, page 62, lines 15-22.

caused by Hydro outages. As noted by Mr. Murray, "*distribution reliability is a lot different than a transmission reliability*" and this is not an "*apples to apples*" comparison.[368]

As outlined in section 1.3 of this submission, supply reliability concerns have come into focus since the Company's last GRA with Hydro's update to its *Reliability and Resource Adequacy Study* in 2022.[369]

Mr. Murray provided the following with respect to Newfoundland Power's concerns with the LIL, with reference to information available since the Company's last GRA.

> *"…our concern with the LIL going back to 2022, and the Reliability Resource Adequacy Study…comes from a couple of factors…there was a review done by Haldar and Associates that indicated that…previously the LIL's reliability was portrayed as a return period of 1 and 175, and through that review they determined that some structures were actually more like a 1 in 10 year return period, so much, much, less than what was indicated, and that was at the time—and as well, Daymark Energy Advisors also…said that with the loss of a tower on the LIL…perhaps the LIL should be considered an energy only line versus firm capacity. So, we're drawing our conclusions--drawing some of our conclusions from those reports that were a part of the Reliability and Resource Adequacy Study, and that was at the time…that Hydro indicated that Holyrood was required for backup in the near term to ensure we had reliability of the system. So, while it may have performed well last year, there have been a number of outages over the last three or four years that have had extended period of outages. In the most recent year, and this year in March, the LIL was out for eight days due to an ice storm in Labrador. So, it just shows you that the extent that an outage can have. Luckily that was during a warm period of time and Holyrood was available, but it was out for 10 days due to storm damage. So, our concerns come from…those types of observations."*[370]

The LIL's Equivalent Forced Outage Rate in its first year of operation does not alleviate Newfoundland Power's concerns with respect to its reliability. The evidence on the record of this

368 See Mr. Murray Transcript, June 13, 2024, page 153, line 15 to page 155, line 4 for a fulsome discussion on this matter.
369 See page 4 of this submission.
370 Mr. Murray Transcript, June 13, 2024, page 156, line 8 to page 157, line 20.

proceeding supports the Company's concerns about reliability of the LIL and its impact on Newfoundland Power's risk profile.

5.1.3 Impact of Newfoundland Power's ROE on Third Parties

Hydro submits that the consideration of how an increased ROE would impact Hydro's revenue requirement is *"material in considering the ultimate impacts of Newfoundland Power's requests on customers."*[371]

By virtue of Order in Council OC2009-063, Hydro's ROE is set to be the same as Newfoundland Power's most recently set ROE. Hydro's payments under the Transmission Funding Agreement related to the Muskrat Falls Project are also impacted by the Company's allowed ROE. The evidence provides that consideration of the interests of third parties in the Board's determination of a fair ROE for Newfoundland Power is not consistent with the fair return standard or the stand-alone principle.[372]

5.2 OPERATING COSTS

Hydro submits that it is appropriate for the Board to issue directives to Newfoundland Power that will provide incentive to manage costs and find efficiencies. Hydro's submission appears to be primarily based on the increases in the Company's operating costs as compared to the 2023 test year; the fact that Newfoundland Power's operating costs were lower than forecast for five of the 11 years from 2013 to 2023; and the assertion that the Company could not provide examples of specific actions or efficiencies that were any different from those included in previous GRAs.

[371] Hydro's Submission, page 7, lines 12-13.
[372] PUB-NP-134.

Similar to the Consumer Advocate's submission, Hydro's submission is based on a limited analysis of Newfoundland Power's operating costs. Hydro provides no evidence that any specific operating cost amounts included in the Company's 2025 and 2026 test year are unreasonable. Finally, Hydro's submission does not consider the legislative requirement that Newfoundland Power must have the opportunity to recover its reasonable costs.[373]

For these reasons, Newfoundland Power' submits that Hydro's recommendation regarding the Company's operating costs is not reasonable.

The following addresses the primary concerns raised by Hydro in its submission.

Increases in operating costs since the 2023 test year

The evidence on the record of this proceeding provides the factors that have provided for increases in Newfoundland Power's operating costs since the 2023 test year was derived in 2021. These factors include higher than anticipated inflation, external market cost pressures and changes in operational requirements.

These factors are discussed, with reference to the supporting evidence, in section 3.2 of this submission. Further context on Newfoundland Power's operating costs is also provided in section 4.3 with respect to the Company's reply to the Consumer Advocate on similar matters.

[373] Section 80(2) of the *Public Utilities Act*.

Operating costs compared to forecast

Hydro observes that lower than forecast operating costs were a primary factor in Newfoundland Power's higher than forecast regulated earnings for five of the 11 years, from 2013 to 2023. However, in four of the 11 years, the Company had higher than forecast operating costs and in the remaining two years, operating costs were relatively consistent with forecast.[374]

Hydro also does not address the purpose of the Company's allowed range of return on rate base. This existing range provides an incentive for Newfoundland Power to lower its operating costs, which in turn, lowers overall costs for customer over the longer-term.[375]

Operating cost efficiencies

Section 3.2.1 of this submission describes Newfoundland Power's approach to cost management and summarizes the evidence demonstrating that the Company operates in an efficient matter.

The record provides more than two dozen specific examples of sustainable productivity improvements, demonstrating Newfoundland Power's commitment to seeking out and implementing efficiencies, whether they are large or small in nature.[376]

Without Newfoundland Power's proactive and consistent approach to sustainable cost management, test year operating costs for 2025 and 2026 would be higher than what is proposed in the Application.[377]

[374] PUB-NP-075.
[375] See section 4.2 of this submission.
[376] PUB-NP-017, PUB-NP-023, PUB-NP-027 and NLH-NP-007.
[377] NLH-NP-008 and the Company Evidence, page 2-27, figure 2-11.

Finally, Hydro's commentary regarding the circumstances requiring a productivity allowance is also limited. Section 3.2.4 of this submission fully addresses this matter.

5.3 EXECUTIVE COMPENSATION

Hydro's submissions on Newfoundland Power's executive compensation are focused on the use of the broad Canadian Commercial Industrial market as a comparator group. Hydro questions whether this comparator group is the "*most appropriate*," given the lack of utility representation and geographic consideration of organizations included within it.[378]

The Board uses the standard of whether the comparator group and compensation policies are reasonable and appropriate. As discussed in section 3.3 of this submission, the Board has held that the use of the Canadian Commercial Industrial market is appropriate, and that Newfoundland Power's executive compensation policy is reasonable. The Company submits that the comparator group is not required to meet the test of being the most appropriate, as Hydro suggests.

The Company has presented expert evidence on the challenges associated with selecting a comparator group. Public sector utilities (i.e. provincial or municipally owned utilities) are excluded from the comparator group, as they have different funding and business models as compared to an investor-owned utility.[379] Mr. Ma indicated on cross-examination that this is because public sector organizations "*are constrained by certain things, like fiscal policies,*

[378] Hydro's Submission, page 9, lines 22-23.
[379] NLH-NP-135, parts c).

provincial policies, or other kind of public policies, which Newfoundland Power are not phasing (sic), so that's not a fair comparison."[380]

Further, there are a limited number of investor-owned utilities in Canada. This number is further reduced when Fortis Inc. subsidiaries are excluded, which they are in Newfoundland Power's comparator group.[381] As Mr. Ma noted when asked about constructing a smaller comparator group composed of utilities: "*... the first test is how many private sector utilities is (sic) available to us. So, we came to conclusions (sic) that there are too few to conduct that analysis as far as we are concerned.*"[382]

As outlined in section 3.3 of this submission, no party has presented evidence to support a finding that the continued use of the Canadian Commercial Industrial comparator group, or the continued application of the Company's longstanding compensation policy, is now unreasonable.

380 Mr. Ma Transcript, June 25, 2024, page 90, lines 16-21.
381 NLH-NP-135, part d). See also Mr. Ma Transcript, June 25, 2024, page 28, lines 7-11.
382 Mr. Ma Transcript, June 25, 2024, page 78, lines 17-21.

Appendix A
Settlement Agreement Issues

1. THE AUTOMATIC ADJUSTMENT FORMULA

It has been agreed that the Board should approve the continued suspension of the use of an automatic adjustment formula for setting the allowed ROE for Newfoundland Power in years subsequent to 2026 until the Board makes a subsequent determination in relation to Newfoundland Power's next GRA.[383]

Evidence Before the Board:
Since Newfoundland Power's 2022/2023 GRA bond yields have increased. However, financial market conditions have been volatile. Current economic conditions do not provide the stability in financial markets necessary to establish a formula that can be used to adjust the Company's return on equity between test years.[384]

The expert evidence of Concentric filed with the Application also recommends continued suspension of the formula.[385] The Consumer Advocate's expert, Dr. Booth, noted that:

> "*…we have not yet consistently reached the 3.8% forecast LTC yield, which I regard as the 'normality' trigger for bond prices and yields to be determined on the basis of fair market value. However, we are getting there, and as we do the validity of the suspended ROE adjustment formulae begin to assert themselves*."[386]

Dr. Booth concluded that:

> *"If the Board is unwilling to impose an automatic ROE adjustment formula in the current GRA, I would suggest that at the very least one be on the list of issues that the Board wants evidence on for the next GRA."*[387]

2. CLAUSE II.9 OF THE RATE STABILIZATION CLAUSE

It has been agreed that the Board should approve, for costs incurred commencing January 1, 2021, amendments to Clause II.9 of the Rate Stabilization Clause, as set out in the Application to allow for recovery of costs charged annually to the Electrification Cost Deferral Account.[388]

Evidence Before the Board:
In Order No. P.U. 3 (2022), the Board approved the establishment of the Electrification Cost Deferral Account; however, the Board did not approve the Company's proposed amendments to Clause II.9 of the Rate Stabilization Account to allow for the recovery of costs in the

383 Settlement Agreement, item 6.
384 Company Evidence, pages 3-44 to 3-47.
385 Concentric Evidence, pages 83 to 85.
386 Booth Evidence, page 3.
387 *Ibid.*, page 4.
388 Settlement Agreement, item 7.

Electrification Cost Deferral Account.[389] In Order No. P.U. 33 (2022) associated with the 2021 Electrification, Conservation and Demand Management Application, the Board agreed with the 10-year recovery period for deferred electrification costs; however, the Board did not approve the Company's proposed amendments to Clause II.9 of the RSA.[390]

Newfoundland Power proposed to recover approved customer electrification costs through its RSA over 10 years, commencing January 1, 2025.[391]

3. DMI ACCOUNT

It has been agreed that the Board should approve amendments to the definition of the DMI Account effective January 1, 2025, to establish a threshold of ±$500,000 as proposed in the Application.[392]

Evidence Before the Board:
Newfoundland Power proposed to revise the DMI Account definition to replace the calculation of the threshold from ± 1% of test year wholesale demand charges to ± $500,000 with effect from January 1, 2025.[393]

In Newfoundland Power's view, a ± $500,000 threshold would reflect that, while limited, there are some aspects to managing peak day demand that are within the Company's control.[394] While the use of thresholds associated with supply cost mechanisms is not the prevalent practice in Canada, the Board has approved cost thresholds of ± $500,000 associated with certain Hydro supply costs in the past.[395]

The Board's expert, Brattle, recommended that the DMI Account should be modified to remove the incentive threshold related to peak demand.[396]

4. REPORT ON SUPPLY COST MECHANISMS

In recognition that more detailed information on the Company's supply cost mechanisms would be beneficial to the Board and to the parties in future GRAs, it has been agreed that Newfoundland Power will prepare a report that reviews each of its supply cost mechanisms, including review of the recommendations in the Brattle Deferral Account Report and a jurisdictional review, to be filed with the Board on or before December 31, 2025.[397]

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389 Company Evidence, page 3-48, lines 8-13.
390 *Ibid.*, page 3-48, lines 15-22, and page 3-49, lines 1-2.
391 *Ibid.*, page 3-49, lines 6-13 and page 3-50, lines 1-3.
392 Settlement Agreement, item 8.
393 Company Evidence, pages 3-50 to 3-55.
394 *Ibid.*, page 3-55, lines 9-10.
395 *Ibid.*, page 3-55, lines 6-7.
396 Brattle Load Forecasting Report, page 14.
397 Settlement Agreement, item 9.

5. PENSION CAPITALIZATION COST DEFERRAL ACCOUNT

It has been agreed that the Board should approve the proposed amendments to the definition of the Pension Capitalization Cost Deferral Account, effective January 1, 2025, to cease charges to the account effective December 31, 2024.[398]

Evidence Before the Board:
In Order No. P.U. 3 (2022), the Board approved revisions to the Company's general expenses capitalized calculation effective January 1, 2023, which included the use of a deferral account to offset the income tax impact of the change in capitalizing pension costs, with amortization of the amounts over a five-year period commencing January 1, 2023. Newfoundland Power proposes to amend the Pension Capitalization Deferral Account to cease charges to the account effective December 31, 2024. Prior charges to the account will continue to be amortized over five years.[399]

6. IFRS COST DEFERRAL ACCOUNT

It has been agreed that the Board should approve the creation and use of the IFRS Cost Deferral Account to provide for the deferred recovery of actual costs incurred associated with the Company's conversion to IFRS.[400] It has been further agreed that the Board should approve a decrease to the revenue requirement for 2025 and 2026 of $995,000 and $495,000, respectively, to reflect the use of the IFRS Cost Deferral Account.[401]

Evidence Before the Board:
Newfoundland Power's test year operating costs include $995,000 in 2025 and $495,000 in 2026 under the category Financial Services, reflecting costs anticipated in relation to the Company's conversion from U.S. GAAP to IFRS.[402] The implementation costs are one-time and not recurring.[403]

7. AMORTIZATION OF HEARING COSTS

It has been agreed that the Board should approve the recovery of Board and Consumer Advocate hearing costs related to the Application be recovered over a 30-month period commencing July 1, 2025 and ending December 31, 2027. For rate setting purposes, it was agreed that these costs be estimated at $1.0 million, with any difference between actual costs and costs estimated for rate setting purposes to be recovered or rebated through Newfoundland Power's RSA.[404]

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398 Settlement Agreement, item 10.
399 Company Evidence, pages 3-56 to 3-57 and Exhibit 15.
400 Settlement Agreement, item 11.
401 *Ibid.*
402 Company Evidence, page 2-33, footnote 60. See also PUB-NP-022, table 1.
403 PUB-NP-017, page 5 of 6, line 19.
404 Settlement Agreement, item 12.

Evidence Before the Board:
Newfoundland Power proposed the recovery of an estimated $1.0 million in Board and Consumer Advocate costs related to the Application in customer rates over a 30-month period commencing July 1, 2025 and ending December 31, 2027.[405] The recovery of application costs over a three-year period is consistent with past practice of the Board.[406]

8. DEPRECIATION EXPENSE

It has been agreed that the Board should approve the calculation of depreciation expense as proposed in the Application.[407]

Evidence Before the Board:
Increases in depreciation expense are the result of the Company's annual capital investment in the electrical system. Depreciation expense reflects the methodology and depreciation rates outlined in its *2019 Depreciation Study*.[408] The depreciation study and depreciation rates were approved by the Board during the *2022/2023 GRA*.[409]

9. CED FORECAST

It has been agreed that the Board should approve the 2025 and 2026 CED Forecast proposed in the Application for use in the Application.[410]

Evidence Before the Board:
The Company's CED Forecast reflects the impact of the proposals in the Application.[411]

Newfoundland Power's CED Forecast indicates that: (i) the number of customers Newfoundland Power serves will increase by 0.4% in 2025 and 0.3% in 2026;[412] (ii) energy sales will increase by approximately 0.8% in each of 2025 and 2026;[413] and (iii) peak demand will decline by approximately 0.7% in 2026.[414] These forecasts include the impact of price elasticity associated with known rate changes, as well as the impact of energy conservation and demand management programs.[415]

The assumptions used in forecasting revenue and expenses in the CED Forecast are based upon, and incorporate, data from independent sources. The CED Forecast report provided as

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405 Company Evidence, page 3-57, lines 10-16.
406 *Ibid.*, footnote 156.
407 Settlement Agreement, item 13.
408 Company Evidence, pages 3-6 to 3-7. The Gannett Fleming *2019 Depreciation Study* was filed in *Volume 3, Expert Evidence, Tab 1, as part of the Company's 2022/2023 General Rate Application*.
409 See Order No. P.U. 3 (2022), pages 12 and 13.
410 Settlement Agreement, item 14.
411 CED Forecast, pages 1-8.
412 Company Evidence, page 5-3, lines 3-4.
413 Company Evidence, page 5-4, lines 3-4.
414 Company Evidence, page 5-6, table 5-4. See also NLH-NP-083.
415 CED Forecast, page 5.

part of the 2025/2026 GRA has been Newfoundland Power's standard approach to detailing the Company's forecast in general rate proceedings, and the Company has been providing the report in its current form as part of its GRAs since 2007.[416]

The Board's expert, Brattle, found that the Company's energy and peak demand forecasts provide reasonable accuracy for the 2025/2026 GRA.[417]

10. REVIEW OF CED FORECAST METHODOLOGY

It has been agreed that Newfoundland Power will engage an expert to conduct a review of its CED Forecast methodology, including a review of the recommendations set out in the Brattle Load Forecasting Report, to be filed with the Board on or before December 31, 2025.[418]

416 Company Rebuttal, page 2, lines 15-18.
417 Brattle Load Forecasting Report, pages 16 and 23.
418 Settlement Agreement, item 15.

Appendix B
Wholesale Rate Settlement Agreement Issues

The Wholesale Rate Settlement Agreement reflects the agreement of Newfoundland Power, the Consumer Advocate, and Hydro on the desire for revisions to the existing wholesale rate charged by Hydro to the Company, as well as parameters surrounding the revised rate and anticipated process for the review and approval of the proposed revised rate.[419]

1. THE REVISED WHOLESALE RATE

It has been agreed that it is desirable to establish a new wholesale rate that reflects current marginal energy costs, effective January 1, 2025.[420]

Evidence Before the Board:
At the time of filing the Application, there was uncertainty in the implementation date of a new wholesale rate. It was expected that the wholesale rate would be redesigned as part of Hydro's next GRA, which was anticipated to be in the latter half of 2024.[421] This timeline would have allowed for the implementation of a new wholesale rate as early as January 1, 2025 (on an interim basis).

Following the filing of the Application, Hydro revised the expected timing of filing its GRA to 2025.[422] Due to this anticipated delay, Newfoundland Power and Hydro began discussions on the possibility of revising the wholesale rate in advance of Hydro's next GRA.[423] Details on the benefits of a new wholesale rate, as well as potential process considerations and an illustrative example of a new wholesale rate, were provided through the request for information process.[424]

A Wholesale Rate Revision Framework was provided as Schedule A to the Wholesale Rate Settlement Agreement. The Framework outlines the draft revised wholesale rate, a potential process for review and approval of the revised wholesale rate, and details estimated revenue requirement and customer rate impacts.[425]

The final wholesale rate will be included in Hydro's September application to the Board.

2. THE PROCESS

It has been agreed that Hydro will file its application for a new wholesale rate with the Board on or about September 15, 2024, subject to the Framework and the principles outlined therein.[426] It has been further agreed that Newfoundland Power will file its flow-through application on the same date. It has been acknowledged that the applications will be subject

[419] References to agreement between the parties in this Appendix refer to agreement between the Company, Consumer Advocate, and Hydro, and exclude the IBEW and Board hearing counsel.
[420] Wholesale Rate Settlement Agreement, item 6.
[421] Company Evidence, page 1-9, lines 6-8.
[422] PUB-NP-004.
[423] *Ibid.*, page 2, lines 5-11.
[424] PUB-NP-004, PUB-NP-005, PUB-NP-007, PUB-NP-132 and PUB-NP-133.
[425] Wholesale Rate Settlement Agreement, Schedule A.
[426] Wholesale Rate Settlement Agreement, item 7.

to review by the Board, and that the final wholesale rate will be established by an order of the Board.[427]

Evidence Before the Board:
The Company acknowledges that the Board has discretion to set its own process, and defers to that discretion.

The Framework outlines a potential review process which includes the concurrent review of Hydro's and Newfoundland Power's applications to revise the wholesale rate. This includes a filing date on or about September 15, 2024 and indicates that a Board order by mid-December 2024 would allow for the revised wholesale rate to be implemented on January 1, 2025.[428] The Company submits that the concurrent review will aid regulatory efficiency.

An application proposing base customer rates for July 1, 2025 in compliance with the Board's order on the 2025/2026 GRA could also incorporate the revisions to the proposed 2025 and 2026 revenue requirements for the Board's order on Newfoundland Power's flow-through application.[429]

The IIC Group requested it be afforded the reasonable opportunity to intervene in any application by Hydro to revise the wholesale rate.[430] The Company submits that this would be reasonable and consistent with past practice of the Board.

3. REBASING OF POWER SUPPLY COSTS

It has been agreed that the Board should order the Company to rebase its power supply costs as part of its flow-through application.[431] Newfoundland Power will include rebasing of supply costs as one of its proposals contained in its September flow-through application associated with the wholesale rate.

Evidence Before the Board:
The Company did not rebase its forecast power supply energy costs into base rate 2025 and 2026 revenue requirements in the Application, as it would have potentially resulted in power supply costs being recovered from customers in 2025 and 2026 that were not based on the wholesale rate actually in effect in those years.[432]

The Company further detailed its rationale to not rebase in response to Requests for Information.[433]

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427 *Ibid.*
428 Framework, page 2.
429 Ms. London Transcript, June 17, 2024, page 154, line 12 to page 155, line 1.
430 See the IIC Group's July 5, 2024 letter *Re: Newfoundland Power Inc. 2025-2026 General Rate Application – Letter of Comment of the Island Industrial Customer Group*, page 3, lines 20-23.
431 Wholesale Rate Settlement Agreement, item 8.
432 Company Evidence, page 1-9.
433 PUB-NP-004, part a), PUB-NP-005, and PUB-NP-006.

Newfoundland Power submits that if the revision to the wholesale rate does not proceed as agreed in the Wholesale Rate Settlement Agreement and the attached Framework, it would be reasonable for the Board to order the Company to rebase power supply energy costs based on the current wholesale rate as part of the order on the Application.[434] This was confirmed by Newfoundland Power at the oral hearing.[435]

[434] PUB-NP-004 and PUB-NP-133.

[435] Ms. London Transcript, June 17, 2024, page 152, lines 10-16. See also Mr. O'Brien Transcript, June 28, 2024, page 1, lines 10-20.