

**NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

AN ORDER OF THE BOARD

NO. P. U. 10(2008)

1 **IN THE MATTER OF** the *Electrical Power*
2 *Control Act*, RSNL 1994, Chapter E-5.1 (the
3 “*EPCA*”) and the *Public Utilities Act*, RSNL 1990,
4 Chapter P-47 (the “*Act*”) as amended, and their
5 subordinate regulations;

AND

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9 **IN THE MATTER OF** the establishment
10 of the tax deferral account by Newfoundland
11 Power Inc. (“Newfoundland Power”) to true-up
12 the income tax for the 2008 test year to reflect
13 federal corporate tax changes enacted on
14 December 14, 2007 as provided by
15 Order No. P. U. 32(2007).

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19 **WHEREAS** Newfoundland Power is a corporation duly organized and existing under the laws of
20 the Province of Newfoundland and Labrador, is a public utility within the meaning of the *Act*, and is
21 also subject to the provisions of the *EPCA*; and

22
23 **WHEREAS** in Order No. P.U. 32(2007) the Board approved, among other things, the creation of a
24 deferral account to true-up Newfoundland Power’s income tax expense for the 2008 test year and for
25 subsequent years until its next general rate application to reflect the proposed 2008 corporate tax rate
26 changes announced by the Federal Government on October 30, 2007, with the disposition of the
27 account balance, if any, to be subject to a further Order of the Board; and

28
29 **WHEREAS** the proposed corporate tax rate changes for 2008 announced by the Federal
30 Government on October 30, 2007 were enacted into legislation on December 14, 2007; and

31
32 **WHEREAS** on February 29, 2008 Newfoundland Power filed an application for approval of the
33 definition of 2008 Tax Deferral Account, the amount of the 2008 income tax true-up and the
34 disposition of the 2008 income tax true-up (the “Application”); and

35
36 **WHEREAS** Newfoundland Power calculated the 2008 income tax true-up amount resulting from
37 the reduction in the Federal corporate tax rate to be \$955,000 (the “2008 Income Tax True-up”); and
38

1 **WHEREAS** Newfoundland Power is proposing to dispose of the 2008 income tax true-up through a
2 transfer of \$560,000 to the Rate Stabilization Account (“RSA”) on March 31, 2008 and a July 1,
3 2008 reduction of 0.177% in customer base rates; and
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5 **WHEREAS** the Board’s financial consultants Grant Thornton LLP reviewed the Application and
6 filed a report on April 9, 2008 which confirmed the accuracy of Newfoundland Power’s calculation
7 of the 2008 Income Tax True-up and its components, the amount to be transferred to the 2008 Tax
8 Deferral Account, and the proposed 0.177% reduction in base rates as of July 1, 2008; and
9

10 **WHEREAS** in its report Grant Thornton noted that the corporate tax reductions for the period 2009
11 to 2012 were also enacted by the Federal Government on December 14, 2007 and that
12 Newfoundland Power had not addressed in its application if it plans to reflect these changes with
13 regard to the operation of the tax deferral account or if the option proposed for the 2008 Income Tax
14 True-up would apply for the possible income tax true-up in subsequent years; and
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16 **WHEREAS** the Board issued Information Requests to Newfoundland Power with respect to the
17 Application to which Newfoundland Power responded on April 25, 2008; and
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19 **WHEREAS** copies of the Application, the Information Requests and responses, and Grant
20 Thornton’s report were sent to Newfoundland and Labrador Hydro and the Consumer Advocate,
21 intervenors to the 2008 General Rate Application of Newfoundland Power; and
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23 **WHEREAS** in his May 21, 2008 response the Consumer Advocate states that he takes no issue with
24 respect to the manner in which Newfoundland Power has calculated the 2008 Income Tax True-up
25 and its components and Newfoundland Power’s proposal to deal with the disposition of the 2008
26 Income Tax True-up, but submits that the Board should ensure that the benefits of the corporate tax
27 rate reductions in subsequent years are passed on to consumers, either through the establishment of a
28 mechanism with this Order or as a result of a separate proceeding; and
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30 **WHEREAS** in its reply of May 22, 2008 Newfoundland Power notes that the Consumer Advocate
31 takes no issue with respect to Newfoundland Power’s calculation and proposed disposition of the
32 2008 Income Tax True-up as set out in its Application, but submits that no evidentiary basis
33 currently exists on the record of this process for due consideration of the issue of tax reductions to
34 take effect subsequent to 2008; and
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36 **WHEREAS** the Board is satisfied that Newfoundland Power’s calculation of the 2008 Income Tax
37 True-up and the proposed definition of the 2008 Tax Deferral Account for inclusion in its System of
38 Accounts are in accordance with Order No. P.U. 32(2007); and
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40 **WHEREAS** the Board is satisfied that the 2008 Income Tax True-up of \$955,000 properly reflects
41 the 2008 corporate income tax reduction; and

1 **WHEREAS** the Board is satisfied that Newfoundland Power's proposals for the disposition of the
2 2008 Income Tax True-up by:

- 3 i) crediting \$560,000 of the 2008 Income Tax True-up to the 2008 Tax Deferral Account as
4 of March 31, 2008;
5 ii) transferring \$560,000 from the 2008 Tax Deferral Account to the RSA as of March 31,
6 2008; and
7 iii) reducing Newfoundland Power's base rates by 0.177% to be effective July 1, 2008
8 are appropriate in the circumstances and should be approved; and
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10 **WHEREAS** in Order No. P.U. 6(2008) the Rate Stabilization Clause was amended to allow
11 adjustment of the balance in the RSA as proposed by Newfoundland Power; and
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13 **WHEREAS** the Board accepts Newfoundland Power's submission that there is not sufficient
14 evidentiary record in this process to allow for a full consideration of the issue of future corporate tax
15 reductions beyond 2008 and how or whether these benefits should be passed on to consumers and, as
16 a result, the Board will consider this matter in a subsequent process.
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19 **IT IS THEREFORE ORDERED THAT:**
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- 21 1. The Board approves:
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23 (a) the definition of the 2008 Tax Deferral Account contained in Schedule "A" of this
24 Order;
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26 (b) a credit of \$560,000 of the 2008 Income Tax True-up to the 2008 Tax Deferral
27 Account as of March 31, 2008;
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29 (c) a transfer of \$560,000 from the 2008 Tax Deferral Account to the Rate Stabilization
30 Account as of March 31, 2008; and
31
32 (d) a reduction in Newfoundland Power's base rates of 0.177% to be effective July 1,
33 2008.
34
35 2. Newfoundland Power shall pay all the expenses of the Board incurred in this Application.

DATED at St. John's, Newfoundland and Labrador, this 29th day of May 2008.

Andrew Wells
Chair and Chief Executive Officer

Darlene Whalen, P.Eng.
Vice-Chair

G. Cheryl Blundon
Board Secretary

Schedule “A”

Order No. P. U. 10(2008)

NEWFOUNDLAND POWER INC.

2008 Tax Deferral Account

In Order No. P. U. 32(2007), the Board directed Newfoundland Power to create a deferral account to true-up the income tax expense for the 2008 Test Year and for subsequent years until its next general rate application to reflect 2008 corporate income tax changes announced by the Federal Government on October 30, 2007. The disposition of any account balance is subject to Board approval.

The balance in the 2008 Tax Deferral Account will reflect the appropriate portion of the 2008 Income Tax True-up, as determined in compliance with Order No. P. U. 32(2007), and approved by the Board, that is owed to customers.