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*Newfoundland & Labrador*

**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

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**IN THE MATTER OF AN  
APPLICATION BY FACILITY ASSOCIATION  
FOR APPROVAL OF REVISED RATES FOR ITS  
NEWFOUNDLAND AND LABRADOR  
PUBLIC VEHICLES – TAXIS AND LIMOUSINES  
CLASS OF BUSINESS**

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**DECISION AND ORDER  
OF THE BOARD**

**ORDER NO. A.I. 14(2016)**

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**BEFORE:**

**Andy Wells  
Chair and Chief Executive Officer**

**Darlene Whalen, P. Eng.  
Vice-Chair**

**James Oxford  
Commissioner**

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

**AN ORDER OF THE BOARD**

**NO. A.I. 14(2016)**

**IN THE MATTER OF** the *Automobile Insurance Act*, RSNL 1990, c. A-22, as amended; and

**IN THE MATTER OF** an application by Facility Association for approval of revised rates for its Newfoundland and Labrador Public Vehicles – Taxis and Limousines class of business.

**BEFORE:**

Andy Wells  
Chair and Chief Executive Officer

Darlene Whalen, P. Eng.  
Vice-Chair

James Oxford  
Commissioner

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1 **1. The Application**

2  
3 Facility Association ("Facility"), as operator of the residual market mechanism for automobile  
4 insurance in the Province, filed a Category 2 application on March 17, 2016 seeking approval of  
5 increased rates for its Newfoundland and Labrador Public Vehicles – Taxis and Limousines  
6 ("Taxis") class of business (the "Application"). The Application proposes overall rate increases  
7 for Third Party Liability, Accident Benefits and Uninsured Automobile coverages, to be effective  
8 no earlier than October 1, 2016, as follows:

<b>Proposed Tax Rate Increases</b>			
	<b>Third Party Liability</b>	<b>Accident Benefits</b>	<b>Uninsured Automobile</b>
Proposed % Increase <sup>1</sup>	+26.9%	+42.2%	+42.7%
Proposed Average \$ Increase <sup>2</sup>	+\$1,140	+\$140	+\$74

9 Facility also proposes changes to its territory relativities for Taxis based on the three standard  
10 rating territories in Newfoundland and Labrador as approved by the Superintendent of Insurance.  
11 As a result, the proposed overall rate increases will vary by territory throughout the Province as  
12 follows:

<b>Proposed Tax Rate Increases<sup>3</sup></b>			
<b>Territory</b>	<b>Third Party Liability</b>	<b>Accident Benefits</b>	<b>Uninsured Automobile</b>
Avalon Peninsula	+32.0%	+48.0%	+42.7%
Island, Outside Avalon	+16.2%	+30.4%	+42.7%
Labrador	+19.0%	+33.1%	+42.7%

13 Rates for Physical Damage<sup>4</sup> coverages are proposed to decrease: Collision by 9.4%;  
14 Comprehensive by 2.0%; and Specified Perils by 1.3%. Facility estimates that its Application  
15 proposals, if approved, will result in an increase of 27.4% in its overall rate level in the Province  
16 for all coverages combined, and a proposed average premium of \$5,982 per vehicle<sup>5</sup>.

17  
18 **2. Background**

19  
20 This Application is Facility's fourth request for an increase in rates for its Taxis class of business  
21 since 2013. Prior to 2013 rates for Taxis had not changed since 1993 as Facility did not file any  
22 applications for rate changes in the intervening 20-year period.

<sup>1</sup> Facility's Actuarial Memorandum, Section 2, page 30. Individual policyholder increases will vary depending on coverage level and driving record.

<sup>2</sup> Oliver Wyman Report, May 26, 2016, page 4.

<sup>3</sup> Facility's Actuarial Memorandum, Section 2, page 32. Individual policyholder increases will vary depending on coverage level and driving record.

<sup>4</sup> Facility's rates for Physical Damage coverage are based on a percentage of its Private Passenger Automobile rates.

<sup>5</sup> Response to PUB-FA-001.

1 On January 24, 2013 Facility filed an application requesting approval of an increase of 50% in  
2 rates for Third Party Liability, and an increase of 100% in rates for both Accident Benefits and  
3 Uninsured Automobile. While the review by the Board's actuaries identified some issues for the  
4 Board's consideration, Facility's proposed rates were not found to be too high based on the  
5 justification provided. In Order No. A.I. 9(2013) the Board approved the rate proposal from  
6 Facility for its Taxis class of business, with new rates effective August 1, 2013.

7  
8 On March 6, 2014 Facility filed an application proposing rate increases of 50% for Third Party  
9 Liability, 294% for Accident Benefits and 329% for Uninsured Automobile, to be effective no  
10 earlier than August 1, 2014. Facility's proposals would result in an increase of 54.1% in its  
11 overall rate level for all coverages combined, including Physical Damage. The Application also  
12 proposed a number of additional changes, including increased limits for Third Party Liability and  
13 Physical Damage coverages, elimination of certain discounts, rating amendments and other rule  
14 changes. Following a public hearing the Board issued Order No. A.I. 11(2015) on April 2, 2015  
15 denying Facility's application.

16  
17 On April 22, 2015 Facility applied for approval of a revised rating program for Taxis  
18 incorporating the Board's findings set out in Order No. A.I. 11(2015). In Order No. A.I.  
19 15(2015), issued on May 4, 2015, the Board approved Facility's revised rating program proposal  
20 to be effective no sooner than August 1, 2015, which resulted in an overall rate increase of  
21 19.3%.

22  
23 On May 22, 2015 Facility filed a further application proposing rate increases of 74.7% for Third  
24 Party Liability, 141.9% for Accident Benefits and 180.1% for Uninsured Automobile, to be  
25 effective no earlier than February 1, 2016. Facility's proposals would result in an increase of  
26 74.1% in its overall rate level for all coverages combined, including Physical Damage. The  
27 Application also proposed a number of additional changes including the implementation of  
28 territory rating for Taxis based on the three standard rating territories in Newfoundland and  
29 Labrador as approved by the Superintendent of Insurance. On January 18, 2016 the Board issued  
30 Order No. A.I. 3(2016) denying Facility's application.

31  
32 On January 28, 2016 Facility applied for approval of a revised rating program for Taxis  
33 incorporating the Board's findings set out in Order No. A.I. 3(2016). In Order No. A.I. 5(2016),  
34 issued on February 10, 2016, the Board approved Facility's revised rating program proposal to  
35 be effective no sooner than June 1, 2016, which resulted in an overall rate increase of 28.9%.

### 37 **3. Procedural Matters**

38  
39 The Application was referred to the Board's actuarial consultants, Oliver Wyman Limited  
40 ("Oliver Wyman"), for review.

41  
42 On April 12, 2016 Oliver Wyman filed questions on Facility's actuarial analysis and Facility  
43 filed responses April 20, 2016.

44  
45 On April 26, 2016 the Board issued Requests for Information ("RFIs") to Facility.

1 On May 3, 2016 Oliver Wyman discovered an error in Facility's written premium exhibits.

2  
3 On May 10, 2016 Facility filed responses to the Board's RFIs as well as revised exhibits to  
4 correct the error discovered by Oliver Wyman.

5  
6 On May 26, 2016 Oliver Wyman filed a report outlining its review of the actuarial justification  
7 provided in the Application. Facility filed comments in response to Oliver Wyman's report on  
8 June 7, 2016. On June 23, 2016 the Board issued a response to Facility's comments on Oliver  
9 Wyman's report to which Facility responded on June 30, 2016.

10  
11 On June 9, 2016 the Board extended the 90-day review timeline.

12  
13 A Notice of Application was published in newspapers throughout the Province starting June 18,  
14 2016 inviting comments on the Application to be filed by July 4, 2016. Two submissions were  
15 received.

16  
17 On September 20, 2016 Oliver Wyman filed an addendum to its May 26, 2016 report to address  
18 an error discovered with its Uninsured Auto rate indication calculation. Oliver Wyman intended  
19 to present an alternative Uninsured Auto rate level indication with a full credibility standard of  
20 2,164 claims but inadvertently presented it based on 3,246 claims. This altered the figures  
21 presented in Table 5 of the report<sup>6</sup>, but did not change Oliver Wyman's findings. The addendum  
22 was sent to Facility for comment on September 21, 2016. Facility advised on September 22,  
23 2016 that it had no further comments.

#### 24 25 **4. Public Comments**

26  
27 Written comments on the Application proposals were received from Todd Edmunds, a Director  
28 of Star Taxi Limited in Corner Brook. A submission was also received from Dave Fleming of  
29 Northwest Taxi 1985 Ltd.

30  
31 Mr. Edmunds opposed the Application. He noted if Facility's proposal is granted it will mean  
32 that that the insurance rates for his business will have gone up over \$4,000 per vehicle within the  
33 past four years. He stated that increasing costs in addition to the higher insurance rates have had  
34 a serious impact on his business. Star Taxi Limited has already reduced the size of its fleet and  
35 additional independent drivers will have no choice but to remove their cars when they receive  
36 their renewals. He also suggested that further insurance rate increases do not serve the interests  
37 of consumers or small business as taxi companies will have to look for fare increases resulting in  
38 higher costs to the people that use taxis, and revenue generated through fare increase will likely  
39 be offset by customer loss. Mr. Edmunds stated:

40  
41 We recognize that there are higher than normal costs associated with providing insurance  
42 for high risk drivers. However, their livelihood should not be threatened by a  
43 government-mandated program that places such a huge burden on their employer.

---

<sup>6</sup> Uninsured Auto indication increased from +42.7% to +50.9% and Total indication increased from +25.4% to +25.7%.

1 Mr. Edmunds requested that the rate increase be denied.

2  
3 Mr. Fleming's submission included a copy of Nova Scotia's Automobile Accident Minor Injury  
4 Regulations and an article from The Canadian Press titled "Uber drivers in Ontario now insured  
5 automatically." Mr. Fleming did not provide any written comments with his submission.

## 6 7 **5. Review of Application Proposals**

8  
9 In the Application Facility presents its rate level need using three sets of assumptions for cost of  
10 capital and return on investment.<sup>7</sup> Facility's overall rate indications and proposed changes based  
11 on 0% cost of capital and 2.8% return on investment are shown below:<sup>8</sup>

Coverage	Overall Rate Indication (0% cost of capital and 2.8% ROI)	Overall Proposed Rate Change <sup>9</sup>
Third Party Liability	+27.2%	+26.9%
Accident Benefits	+42.2%	+42.2%
Uninsured Automobile	+42.7%	+42.7%
Collision	-9.4%	-9.4%
Comprehensive	-2.0%	-2.0%
Specified Perils	-1.3%	-1.3%
<b>Total</b>	<b>+27.7%</b>	<b>+27.4%</b>

12 Facility is proposing overall rate level changes by coverage that are the same or less than its  
13 indications using 0% cost of capital and 2.8% return on investment. Facility is also proposing to  
14 vary its Third Party Liability and Accident Benefits rates based on the three standard rating  
15 territories as approved by the Superintendent of Insurance.

16  
17 With respect to Facility's ratemaking methodology Oliver Wyman noted that Facility's proposed  
18 overall rate level change of 27.4% is based on assumptions that are generally in keeping with the  
19 Board's Filing Guidelines and recent Decisions on previous Facility Taxi rate applications with  
20 the exception of the full credibility standards. Oliver Wyman identified issues and considerations  
21 for the Board with respect to Facility's methods and assumptions used for: i) the full credibility  
22 standard; and ii) the Third Party Liability territory relativities.

23  
24 The assumptions and methods used for all other parameters were found to be reasonable on the  
25 basis proposed and/or in accordance with the Filing Guidelines and the Board's findings in Order  
26 No. A.I. 3(2016).

<sup>7</sup> Facility presents three rate level indications based on: i) 12% cost of capital and 0.39% return on investment; ii) 0% cost of capital and 0.39% return on investment; and, iii) 0% cost of capital and 2.80% return on investment. The overall rate level indication for each of these scenarios is +79.7%, +60.2% and +27.7% respectively.

<sup>8</sup> Oliver Wyman Report, May 26, 2016, page 3.

<sup>9</sup> The proposed changes for each coverage are the same as those originally proposed, but the total overall change was amended from +27.7% to +27.4% due to a change in distribution weights. The change in weights also caused the TPL rate indication change from +26.9% to +27.2%.

1     **6.     Board Findings**

2  
3     The Board is cognizant that there are a wide range of possible outcomes in any prospective  
4     ratemaking exercise. The Board must be satisfied that the proposed rate changes are supported  
5     based on the information filed and are not too high in the circumstance. In making this  
6     determination the Board looks to the professional judgement of the actuaries, as well as the  
7     support and explanation for their respective positions. The Board notes that neither Facility nor  
8     Oliver Wyman took the position that each other's work was unreasonable or contrary to actuarial  
9     practice standards.

10  
11    The Board has reviewed the record of the proceeding, including Facility's Actuarial  
12    Memorandum, Oliver Wyman's reports on its review of the Application, and Facility's responses  
13    to Oliver Wyman's report and the information requests. The issues to be addressed are: i) the full  
14    credibility standards; and ii) the Third Party Liability territory relativities. These issues, along  
15    with the Board's findings on each, are discussed in the following sections.

16  
17    **6.1    Full Credibility Standards**

18  
19    The standard of full credibility determines the weight given to the latest Facility Taxi experience  
20    in the rate change indication. While there is science underlying the selection of the full  
21    credibility standard, considerable judgement is exercised by actuaries in selecting full credibility  
22    standards.

23  
24    In its 2013 filing Facility selected full credibility standards with reference to a study completed  
25    in 2004 by Facility's former external actuarial services provider, Eckler Ltd., using 2003 Atlantic  
26    Commercial Vehicle data. The selected claims count levels by coverage from this study are as  
27    indicated below:

Coverage	Full Credibility Standard
Third Party Liability	5,410
Accident Benefits	2,164
Uninsured Automobile	2,164

28    Based on the actuarial support provided, this approach was accepted by the Board in Order No.  
29    A.I. 9(2013).

30  
31    In its March 2014 filing Facility proposed to reduce its Third Party Liability full credibility  
32    standard from that used in its 2013 filing based on an internal actuarial judgment decision to  
33    harmonize the credibility standards to be consistent at the coverage level across all jurisdictions.



1 The selected claims count levels by coverage proposed by Facility are as indicated below:

Coverage	Full Credibility Standard
Third Party Liability	3,246
Bodily Injury	2,164
Property Damage	1,082
Accident Benefits	2,164
Uninsured Automobile	2,164
Underinsured Motorist	2,164
Collision	1,082
Comprehensive	1,082
Specified Perils	1,082

2 The claims count reduction gave more weight to actual experience and resulted in higher  
 3 proposed Third Party Liability rates.<sup>10</sup> In Order No. A.I. 11(2015) the Board found that Facility  
 4 had not provided sufficient actuarial support for its proposed changes to the full credibility  
 5 standards.

6  
 7 In its May 2015 filing Facility again proposed to lower its Third Party Liability full credibility  
 8 standard as proposed in its 2014 filing which was not accepted by the Board<sup>11</sup>. Oliver Wyman  
 9 noted that Facility had not provided any additional technical support for the proposed change  
 10 beyond what was provided in the 2014 filing. As part of its review Oliver Wyman updated the  
 11 data from Facility's 2004 Atlantic Commercial Study to include results for accident years 2009,  
 12 2010 and 2011 as of December 31, 2013. Based on this analysis Oliver Wyman concluded that  
 13 Facility's approach to the full credibility standards as used in its 2013 filing continued to be  
 14 supported. In Order No. A.I. 3(2016) the Board found that Facility had not provided sufficient  
 15 actuarial support for its proposed changes to the full credibility standards.

16  
 17 In this Application Facility's rate proposal is based on the full credibility standards included in  
 18 the Board's Filing Guidelines. The selected claims count levels are as indicated below:

Coverage	Full Credibility Standard
Third Party Liability	4,328
Bodily Injury	3,246
Property Damage	1,082
Accident Benefits	2,164
Uninsured Automobile	3,246
Underinsured Motorist	3,246
Collision	1,082
Comprehensive	1,082
Specified Perils	1,082

<sup>10</sup> In its review of the 2014 filing Oliver Wyman estimated the impact of the lower full credibility standard to be +7% for Third Party Liability rates, assuming no changes in other assumptions.

<sup>11</sup> In its review of the 2015 filing Oliver Wyman estimated the impact of the lower full credibility standard to be +7% for Third Party Liability rates, assuming no changes in other assumptions.

1 Facility has not provided any actuarial support for this change and states that: "FA management  
2 proposal was based on the assumption that the NL Guideline benchmarks would be de facto  
3 acceptable to both the NL Board's actuary and the NL Board, thereby reducing the cost and time  
4 to decision."<sup>12</sup> Oliver Wyman estimates that if Facility were to apply the same full credibility  
5 standards as approved by the Board in the past three Taxi rate applications, Facility's rate level  
6 indication would be reduced by approximately 2 percentage points, assuming no changes in other  
7 assumptions.

8  
9 The Board believes there is value in taking a consistent approach from filing to filing and that  
10 any proposed changes that result in rate increases must be properly explained and supported. In  
11 Order No's. A.I. 11(2015) and A.I. 3(2016) the Board found that Facility had not adequately  
12 justified a change in the full credibility standards for Newfoundland and Labrador. In this  
13 Application Facility proposes to adopt the Board's guideline full credibility standards, but has  
14 not provided any actuarial support or justification to demonstrate that the rate increase resulting  
15 from the change will not result in rates which are too high.

16  
17 The purpose of the Board providing guideline assumptions is to streamline the filing process by  
18 allowing insurers to use any or all of the Board's assumptions without the requirement for further  
19 justification. When an insurer chooses to provide its own assumptions in a particular area it must  
20 justify to the Board's satisfaction that the alternative assumptions are reasonable and appropriate  
21 in the circumstances. Any future changes to those assumptions must also be similarly justified,  
22 including reverting back to the Board's guideline assumptions. By supporting the use of  
23 alternative assumptions in a rating program an insurer effectively relinquishes its ability to use  
24 Board's guideline assumptions without further justification.

25  
26 The approval of Facility's 2013 Taxi filing based on full credibility standards referenced in  
27 Eckler's 2004 Atlantic Commercial Study establishes the requirement that supporting  
28 justification be provided in order for Facility to deviate from those credibility standards,  
29 including reverting to the Board guideline assumptions. In the absence of justification to support  
30 the proposed change the Board does not accept Facility's proposed full credibility standards.

31  
32 **The Board finds that Facility has not justified the proposed change to the standard of full**  
33 **credibility.**

## 34 35 **6.2 Territorial Differentiation**

36  
37 Facility proposes to vary its Third Party Liability and Accident Benefits rates by the three  
38 standard rating territories in Newfoundland and Labrador approved by the Superintendent of  
39 Insurance.

40  
41 In this Application Facility has determined indicated territory relativities by: i) estimating the  
42 ultimate loss ratio separately for Third Party Liability and Accident Benefits in each territory  
43 based on the latest five years of Facility Taxi experience in the Province; ii) measuring the  
44 credibility of its experience in each territory using the full credibility standards included in the  
45 Board's Filing Guidelines; and, iii) applying the balance of credibility weight to a relativity

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<sup>12</sup> Facility Response to Oliver Wyman Report, June 7, 2016, page 3.

1 factor of 1.00 representing the provincial average. Facility proposes territory relativities identical  
2 to the indicated relativities.

3  
4 In its review Oliver Wyman found that Facility's general approach to select territory relativities  
5 to be reasonable. Oliver Wyman noted however, that if the Board finds that Facility has not  
6 supported its requested change to the full credibility standard for Third Party Liability from  
7 5,410 claims to 4,328 claims, the Third Party Liability territory relativities proposed by Facility  
8 will also not be supported. Oliver Wyman calculated the impact of using the higher full  
9 credibility standard for Third Party Liability rates compared to the lower standard selected by  
10 Facility as follows:

Territory	Proposed TPL Relativities Using 4,328 TPL Claims	Indicated TPL Relativities Using 5,410 TPL Claims
Avalon	1.040	1.033
Island, Outside Avalon	0.916	0.922
Labrador	0.938	0.941
<b>Total</b>	<b>1.000</b>	<b>1.000</b>

11 The Board accepts Facility's methodology for determining territory rate relativities for its Third  
12 Party Liability and Accident Benefits rates. However, as discussed in the previous section, the  
13 Board does not accept Facility's proposed change to the full credibility standards on the basis  
14 that it is not supported by the evidence. This means that the proposed territorial rate relativities  
15 for Third Party Liability are also not supported. If Facility wishes to proceed with its proposal for  
16 territorial rates for Taxis then further justification must be provided to support its choice of full  
17 credibility standards for Third Party Liability territory relativities or, alternatively, the indicated  
18 territory relativities calculated by Oliver Wyman may be substituted.

19  
20 **The Board finds that Facility has not justified the proposed territory relativities for Third**  
21 **Party Liability.**

### 22 **6.3 Conclusions**

23  
24  
25 The Board finds that Facility has not justified its proposals in relation to the full credibility  
26 standard and the territory relativities for Third Party Liability.

27  
28 Facility's proposals result in an average overall rate level increase for all coverages combined of  
29 27.4%. The Board notes that Oliver Wyman calculated an indicated increase of 25.7%<sup>13</sup> using  
30 the credibility assumptions accepted by the Board in Order No. A.I. 3(2016). The Board finds  
31 that the rates proposed by Facility are too high in the circumstances.

32  
33 Based on the Oliver Wyman indications the Board accepts that a rate increase for Facility's  
34 Taxis class of business appears to be justified. Facility may file a revised application with further

<sup>13</sup> Oliver Wyman Report Addendum, September 20, 2016, page 4.

1 justification for its assumptions or, alternatively, substitute the indications provided by Oliver  
2 Wyman using the Board's findings as discussed above.

3  
4 In making these findings the Board acknowledges that rates for Taxis in the Province may  
5 potentially increase for the fourth time since August 1, 2013. The frequency of filings for  
6 significant rate increases by Facility is concerning for the Board, especially in light of the fact  
7 that Facility did not make any applications for increases for the 20-year period 1993 to 2013. The  
8 Board also notes Facility's comments in its cover letter to its filing that the loss experience  
9 continues to be poor in relation to rates changes. Facility states:

10  
11 For example, for the 10 year period ending in 2014, the taxi claims frequency for at-fault  
12 losses was almost six times as high as that of private passenger vehicles in the province  
13 and more than seven times as high as the claims frequency for commercial vehicles,  
14 whereas average earned premium for taxis was only three times higher than private  
15 passenger vehicles and less than three times higher than commercial.<sup>14</sup>

16  
17 For the 10-year period ending in 2014 Facility has paid out \$19.0 million in indemnity payments  
18 while having earned only \$15.9 million in premiums. In addition, there is an estimated \$11.1  
19 million that will be paid out in the future on those same accident years.<sup>15</sup> In the Board's view the  
20 significant increases proposed by Facility in each of the last four rate filings is due, in large part,  
21 to Facility not having kept the premium levels adequate for the preceding 20-year period.

22  
23 The Board is cognizant of the impact that large premium increases have on Taxi operators, as  
24 expressed by those who provided comments to the Board in this Application and in previous  
25 filings. The Board's role is to ensure that the rates proposed by Facility are not too high in the  
26 circumstances and are actuarially justified. The underlying Taxi experience data used by Facility  
27 to determine its rate level need is based on its full Taxi loss experience in the Province which, as  
28 a group, represents a small sample size in comparison to other classes of insurance such as  
29 Private Passenger, and which is highly volatile. This makes it difficult to assess rate adequacy  
30 and to actuarially justify proposed increases in rates. However, it is clear based on the evidence  
31 that the Taxis experience in the Province has been and continues to be very poor. In the absence  
32 of some intervention there is no indication that this experience will improve, which means  
33 additional filings for rate increases for Taxis may be forthcoming in the short term.

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<sup>14</sup> Facility's cover letter, March 16, 2016, page 3.

<sup>15</sup> Ibid., page 9.

1 7. Order

2

3 **IT IS THEREFORE ORDERED THAT:**

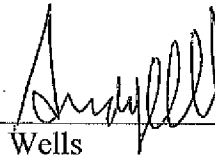
4

5 1. The Application by Facility Association is denied.

6

7 2. Facility Association will pay all costs of the Board, including the cost of the actuarial review,  
8 arising from this Application.

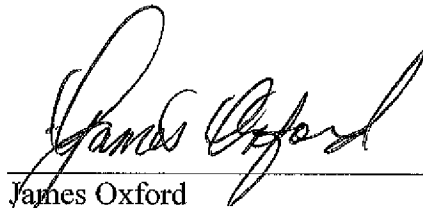
**DATED** at St. John's, Newfoundland and Labrador, this 29<sup>th</sup> day of September 2016.



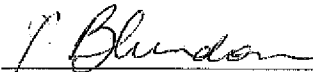
Andy Wells  
Chair & Chief Executive Officer



Darlene Whalen, P.Eng.  
Vice-Chair



James Oxford  
Commissioner



Cheryl Blundon  
Board Secretary

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*Newfoundland & Labrador*

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