

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

AN ORDER OF THE BOARD

NO. P.U. 24(2018)

IN THE MATTER OF the *Electrical Power Control Act, 1994* SNL 1994, Chapter E-5.1 (the “EPCA”) and the *Public Utilities Act, RSNL 1990*, Chapter P-47 (the “Act”), as amended, and regulations thereunder; and

IN THE MATTER OF a general rate application by Newfoundland Power Inc. to establish customer electricity rates for 2019 and 2020.

BEFORE:

**Darlene Whalen, P.Eng., FEC
Chair & CEO**

**Dwanda Newman, LL.B.
Vice-Chair**

**James Oxford
Commissioner**

**John O’Brien, FCPA, FCA, CISA
Commissioner**

PROCEDURAL ORDER

1 **WHEREAS** Newfoundland Power Inc. (“Newfoundland Power”) filed a general rate application
2 (the “Application”) with the Board of Commissioners of Public Utilities (the “Board”) on June 1,
3 2018 requesting approval of, among other things, proposed rates to be effective March 1, 2019;
4 and
5

6 **WHEREAS** notice of the Application and pre-hearing conference was published beginning on
7 June 6, 2018; and
8

9 **WHEREAS** after publishing notice the Board received intervenor submissions from:
10

- 11 1. The Consumer Advocate; and
- 12 2. The International Brotherhood of Electrical Workers, Local 1620; and
13

14 **WHEREAS** on June 27, 2018 a pre-hearing conference was held in the Board’s Hearing Room,
15 120 Torbay Road, St. John’s; and
16

17 **WHEREAS** the following appeared at the pre-hearing conference:
18

- 19 1. Liam O’Brien and Kelly Hopkins, Newfoundland Power Inc.;
- 20 2. Stephen Fitzgerald and Dennis Browne, the Consumer Advocate; and
- 21 3. Mark Murray and Matt Gough, the International Brotherhood of Electrical Workers, Local
22 1620; and
23

24 **WHEREAS** the matters addressed at the pre-hearing conference include the intervenor submissions,
25 the rules of procedure, and the schedule of dates; and
26

27 **WHEREAS** no objection was raised in relation to the intervenor submissions and the rules of
28 procedure; and
29

30 **WHEREAS** the Consumer Advocate commented that the timelines in the proposed schedule of
31 dates were tight and requested flexibility, the International Brotherhood of Electrical Workers,
32 Local 1620 requested the same flexibility, and Newfoundland Power explained that it requires the
33 certainty of a schedule but that it is flexible in terms of the requests for information (“RFIs”) as
34 long as the hearing start date is not impacted too much; and
35

36 **WHEREAS** the Board circulated an amended schedule of dates to the parties which provided an
37 additional three weeks for RFIs and a later start for the hearing; and
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39 **WHEREAS** no objection was filed to the amended schedule of dates; and
40

41 **WHEREAS** the Board is satisfied that the intervenors, the proposed rules of procedure, and the
42 amended schedule of dates should be approved.

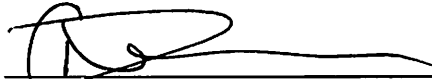
1 **IT IS THEREFORE ORDERED THAT:**

- 2
- 3 1. The intervenors in the Application are as set out in Schedule A to this Order.
- 4
- 5 2. The schedule of dates for the Application shall be as set out in Schedule B to this Order and
- 6 may be amended by the direction of the Board.
- 7
- 8 3. The rules of procedure for the Application shall be as set out in Schedule C to this Order.


DATED at St. John's, Newfoundland and Labrador this 4th day of July, 2018.



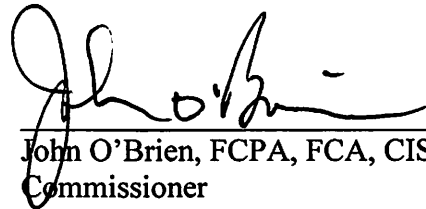
Darlene Whalen, P. Eng., FEC
Chair & CEO



Dwanda Newman, LL.B.
Vice-Chair



James Oxford
Commissioner



John O'Brien, FCPA, FCA, CISA
Commissioner



Sara Kean
Assistant Board Secretary

Newfoundland Power Inc.
2019-2020 General Rate Application
Intervenors

1 **1. Consumer Advocate**
2 Dennis Browne, Q.C.
3 P.O. Box 23135
4 Terrace on the Square, Level 2
5 St. John's, NL A1B 4J9
6 Telephone: 709-724-3800
7 E-mail: dbrowne@bfma-law.com

Represented by:
Stephen Fitzgerald
P.O. Box 23135
Terrace on the Square, Level 2
St. John's, NL A1B 4J9
Telephone: 709-724-3800
E-mail: sfitzgerald@bfma-law.com

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9
10 **2. International Brotherhood of**
11 **Electrical Workers, Local 1620**
12 Donald Murphy
13 Business Manager/Financial Secretary
14 67 Lemarchant Road
15 St. John's, NL A1C 2G9
16 Telephone: 709-753-6071
17 E-mail: don@ibew1620.com

Represented by:
Mark Murray
Martin Whalen Hennebury Stamp
15 Church Hill, PO Box 5910
St. John's, NL A1C 5X4
Telephone: 709-754-0915
E-mail: mmurray@mwhslaw.com

Newfoundland Power Inc.
2019-2020 General Rate Application
Schedule of Dates

1	July	
2		
3	July 27, 2018 (Friday)	Requests for Information filed (RFIs)
4		
5	August	
6		
7	August 17, 2018 (Friday)	Responses to RFIs filed
8	August 31, 2018 (Friday)	2 nd Round of RFIs filed
9		
10	September	
11		
12	September 14, 2018 (Friday)	Responses to 2 nd round of RFIs filed
13	September 25, 2018 (Tuesday)	Experts Reports and pre-filed evidence filed (including Board's Financial Consultants Report)
14		
15		
16		
17	October	
18		
19	October 2, 2018 (Tuesday)	Motions Day (if required)
20	October 5, 2018 (Friday)	RFIs on Expert Reports and pre-filed evidence including Board's Financial Consultants Report
21		Witness lists and issues lists filed
22		
23	October 19, 2018 (Friday)	Responses to RFIs on Expert Reports
24	October 22-26, 2018	Negotiation Period
25	October 24, 2018 (Wednesday)	NP Rebuttal Evidence
26	October 31, 2018 (Wednesday)	Filing of settlement agreement, updated issues list and witness lists, and proposed order of witnesses
27		
28		
29		
30	November	
31		
32	November 7, 2018 (Wednesday)	Final deadline for filing of any outstanding information
33		
34	November 14, 2018 (Wednesday)	Public Hearing begins

Newfoundland Power Inc.
2019-2020 General Rate Application
Rules of Procedure

1 **1. Public Record**

- 2
- 3 (a) Unless otherwise directed by the Board, all documents filed with the Board shall be
4 placed on the public record.
5
- 6 (b) A party may file a document on a confidential basis and the information contained in the
7 document shall be considered confidential unless the Board, on its own motion, or upon
8 the request of another party, determines that an application must be filed to request
9 confidential treatment. A document which is considered to be confidential may viewed
10 by the Board only, or may be released upon the conditions set by the Board.
11
- 12 (c) The Board is bound by the provisions of the *Access to Information and Protection of*
13 *Privacy Act, RSNL 2002 Chapter A-1.1*. Requests for access to confidential documents
14 will be dealt with in accordance with the provisions of this legislation.
15

16

17 **2. Filing of Documents**

- 18
- 19 (a) All documents shall be filed with the Board Secretary.
20
- 21 (b) Documents may be filed by:
22
- 23 (a) hand delivery;
24 (b) courier service;
25 (c) registered mail;
26 (d) electronic mail; or
27 (e) facsimile.
28
- 29 (c) Filing is accomplished on the date when the Board first receives the submission, whether
30 electronically or in paper format.
31
- 32 (d) When documents are filed electronically, paper copies must be filed within 24 hours or
33 the next business day. For parties located outside of the St. John's area, the Board will
34 allow three (3) business days for the filing of paper copies.
35
- 36 (e) Documents filed after 3 p.m. or on a Board holiday shall be considered as filed on the
37 next Board business day.
38

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40 **3. Form of Documents**

- 41
- 42 (a) Paper and electronic filings are considered public records in this proceeding.

- 1 (b) All paper documents filed shall be prepared as follows:
2 (i) typed, written or printed on 8½” X 11” letter size paper, 3-hole punched;
3 (ii) single or double sided;
4 (iii) each page shall be numbered; and
5 (iv) where reasonable, each line shall be numbered.
6
7 (c) All documents filed electronically must be searchable and allow for key-word searching.
8 This will require documents to be scanned with optical character recognition (OCR) or
9 converted to OCR before they are filed with the Board.
10
11 (d) The electronic copy must be an exact copy of the original signed document, including
12 covering letters.
13
14 (e) Upon request the Board may consider filing exceptions regarding the form of documents.
15
16

17 **4. Revisions to Documents**
18

- 19 (a) A party may revise any document to correct errors or to provide new information before
20 the completion of the hearing.
21
22 (b) Where all or any part of a document is revised, each revision shall indicate the page(s)
23 revised, the line(s) revised, the number of the revision (i.e. 1st revision), and the date of
24 the revision.
25
26 (c) Where all or any part of a document is revised, the document must be re-filed
27 electronically in its entirety; however, only the revised pages are required to be filed in
28 paper copy.
29
30 (d) Where a revision is made to a document the Board may, upon its own motion or upon
31 the request of another party, after receiving submissions of the parties, make any order
32 in respect of the revisions.
33
34

35 **5. Number of Paper Copies to be Filed**
36

- 37 (a) Unless otherwise directed, a party filing a document with the Board shall:
38
39 (i) file with the Board Secretary one (1) original signed copy of each document;
40 (ii) provide nine (9) copies of the original document to the Board; and
41 (iii) serve one (1) copy of each document on the other parties. If a party requires
42 additional copies, they may make a request to the Board. If a party does not require
43 hard copies, they may notify the Board Secretary. If a party chooses to only receive
44 electronic copies, they will not receive any hard copies (i.e., a party cannot choose
45 to receive some documents in hard copy and others in electronic).
46
47 (b) A copy of the cover letter must accompany each paper copy filed.

1 **6. Information Requests**

- 2
- 3 (a) A party may file requests for information (“RFIs”).
- 4
- 5 (b) RFIs shall be:
- 6
- 7 (a) labeled with the initials of the party issuing the RFI;
- 8 (b) designated so as to provide notice of to whom the RFI is directed;
- 9 (i.e. PUB-NP-001; PUB-CA-001); and
- 10 (c) numbered consecutively with whole numbers. The number should not contain sub-
- 11 numbering (e.g. PUB-NLH-001A). However, sub-numbering can be used within
- 12 the request itself (e.g. the number will still be a whole number: PUB-NLH-001 but
- 13 may contain a, b, c, etc. within the body of the request).
- 14
- 15 (c) Responses to RFIs shall be:
- 16
- 17 (a) filed as individual pages; and
- 18 (b) numbered on the top right-hand corner of each page with the RFI number and the
- 19 page number. If the response has an attachment, the RFI number and the attachment
- 20 number as well as the number of pages should be included on the top right-hand
- 21 corner of each page.
- 22
- 23 (d) RFIs, and responses to RFIs, constitute part of the record in the proceeding and will be
- 24 considered to be evidence in the proceeding.
- 25
- 26 (e) Where directed by the Board, a party providing a response to an RFI shall make a witness
- 27 or witnesses available for cross-examination to speak to the information provided in the
- 28 response.
- 29

30

31 **7. Service of Documents**

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33 The Board may direct to whom service shall be provided.

34

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36 **8. Time**

- 37
- 38 (a) The parties shall observe the schedule for the proceeding established by the Board as
- 39 amended from time to time.
- 40
- 41 (b) All references to time shall be clear days. The first and last day shall be excluded.

1 **9. Motions**

- 2
- 3 (a) Motions must be filed with the Board and served upon the other parties no later than three
- 4 (3) days before the scheduled Motion Day.
- 5
- 6 (b) Motions shall be filed in writing, contain a clear concise statement of the facts, the order
- 7 or the decision sought, and the reasons for such an order or decision.
- 8
- 9 (c) The responding parties must file with the Board and serve upon the other parties response
- 10 briefs one (1) day before the Motions Day.
- 11
- 12 (d) A motion may be made orally or in writing at any time during the course of the hearing
- 13 and shall be disposed of in accordance with such procedures as the Board may direct.
- 14

15

16 **10. Procedures for Presentation of Evidence and Cross-examination of Witnesses**

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- 18 (a) Pre-filed testimony should be adopted as evidence by the witness in sworn testimony.
- 19
- 20 (b) Direct examination should be limited to matters set out in the witness pre-filed testimony.
- 21 The Board may allow a witness to provide supplementary evidence or may restrict direct
- 22 testimony where it is irrelevant, redundant or not helpful to the Board in making its
- 23 decision.
- 24
- 25 (c) Direct evidence may be presented by way of a panel of witnesses where prior notice has
- 26 been given to the Board Secretary and the parties. When examining a panel of witnesses
- 27 counsel shall put each question to a particular witness on the panel.
- 28
- 29 (d) Co-counsel may examine the same witness, or panel of witnesses, provided notice is
- 30 given to the Board Secretary and the parties prior to the start of the cross-examination of
- 31 the witness. Co-counsel should not examine the same witness on the same subject matter.
- 32
- 33 (e) The party calling the witness shall be afforded an opportunity for re-direct examination
- 34 and all parties shall have an opportunity to pose questions in relation to new matters
- 35 arising from questions of the Board.
- 36
- 37 (f) A party wishing to examine or cross-examine a witness on a document that is not:
- 38
- 39 (i) already part of the record of the proceeding;
- 40 (ii) a portion of a transcript of the witness' own prior testimony; or
- 41 (iii) an Order of the Board;
- 42

43 shall file one (1) original and nine (9) copies of the document with the Board and serve

44 one (1) copy on each party by 3:00 p.m. on the last business day before the examination

45 or cross-examination is to take place. Copies of each document to be used during cross-

46 examination shall be filed separately and not collated with other documents.

- 1 (g) Where the witness adopts the document it will be marked as an exhibit.
2
3 (h) Where a document was not adopted as part of the witness' testimony the document may
4 be, if the parties consent, entered as a consent exhibit; or entered as an information item.
5
6

7 **11. Public Viewing**
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9 Interested persons may view any or all documents filed with the Board, except confidential or
10 private information, on the Board's website (www.pub.nl.ca) or at the Board's office by
11 contacting the Board Secretary.
12
13

14 **12. Copies of Documentation/Information Filed in this Proceeding**
15

- 16 (a) The Board will provide one copy of any document authored by the Board or its
17 consultants, and which is not available on its website, at no charge.
18
19 (b) Copies of documents originating or authored by a party should be requested directly from
20 that party.
21
22 (c) One (1) copy of the transcript for each day of the hearing will be provided to each party
23 at no cost.
24
25 (d) Copies of the legislation can be obtained from the Queen's Printer, viewed at the Board's
26 Office, or viewed on the Board's website at www.pub.nl.ca.
27
28 (e) The Board may charge for the cost associated with the reproduction of any document
29 requested in accordance with the applicable legislation.
30
31

32 **13. Exceptions**
33

34 The Board may dispense with, vary or supplement any provisions of these Rules on those terms
35 the Board considers necessary.
36
37

38 **14. Failure to Comply**
39

40 Where a party to a proceeding has not complied with any requirement of these rules or any
41 direction of procedure or order issued by the Board, the Board may stay the proceedings until
42 satisfied that such requirement has been complied with or take such other steps as it considers
43 reasonable.