

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

**AN ORDER OF THE BOARD**

**NO. P. U. 3(2009)**

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;

5  
6 **AND**

7  
8 **IN THE MATTER OF** an Application by  
9 Newfoundland Power Inc. (“Newfoundland  
10 Power”) for an Order approving a revised  
11 definition of the Excess Earnings Account  
12 pursuant to Section 58 of the *Act* (the “Application”).

13  
14  
15  
16 **WHEREAS** Newfoundland Power is a corporation organized and existing under the laws of  
17 the Province of Newfoundland and Labrador, is a public utility within the meaning of the  
18 *Act*, and is also subject to the provisions of the *EPCA*; and

19  
20 **WHEREAS** in Order No. P.U. 40(2006), the Board approved, among other things, the  
21 definition of the Excess Earnings Account whereby earnings for 2007 and subsequent years  
22 in excess of the maximum allowable rate of return on rate base of 8.65% are to be credited to  
23 the Excess Earnings Account, unless otherwise ordered by the Board; and

24  
25 **WHEREAS** in Order No. P.U. 32(2007) (the “2008 General Rate Order”), the Board  
26 ordered, among other things, that Newfoundland Power’s rate of return on rate base for the  
27 2008 test year was 8.37% in a range of 8.19% to 8.55%; and

28  
29 **WHEREAS** the definition of the Excess Earnings Account requires revision to reflect the  
30 change to the rate of return on rate base for 2008 and subsequent years pursuant to the 2008  
31 General Rate Order.

1 **IT IS THEREFORE ORDERED THAT:**

- 2
- 3 1. The Board approves, pursuant to Section 58 of the *Act*, the definition of the Excess
- 4 Earnings Account as set out in Schedule A.
- 5
- 6 2. Newfoundland Power shall pay all expenses of the Board arising from this
- 7 Application.
- 8

9 DATED at St. John's, Newfoundland and Labrador this 27<sup>th</sup> day of January 2009.

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Andy Wells  
Chair & Chief Executive Officer

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Darlene Whalen, P.Eng.  
Vice-Chair

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Dwanda Newman, LL.B  
Commissioner

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Cheryl Blundon  
Board Secretary

**Schedule A**

**Order No. P. U. 3(2009)**

***Excess Earnings Account***

This account shall be credited with any earnings in excess of the upper limit of the allowed range of return on rate base as determined by the Board, plus the amount of any applicable income taxes calculated at the prevailing income tax rate in that year. Disposition of any balance in this account shall be as determined by the Board. For 2008 and subsequent years, all earnings in excess of an 8.55% rate of return on rate base shall, unless otherwise ordered by the Board, be credited to this account.