
Newfoundland and Labrador
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

IN THE MATTER OF THE
DETERMINATION OF THE NUMBER OF ESSENTIAL EMPLOYEES PURSUANT TO
SECTION 22 OF THE ELECTRICAL POWER AND CONTROL ACT
FILED BY
NEWFOUNDLAND POWER INC. AND
THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 1620

Decision and Order of the Board
ORDER NO. P.U. 6(2025)

BEFORE:

Kevin Fagan
Chair and Chief Executive Officer

Dwanda Newman, LL.B.
Vice-Chair

Christopher Pike, LL.B., FCIP
Commissioner

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

AN ORDER OF THE BOARD

NO. P.U. 6(2025)

IN THE MATTER OF the **Public Utilities Act**, RSNL 1990, Chapter P-47 (the “**Act**”), and as amended, and regulations thereunder, and

IN THE MATTER OF the Electrical Power Control Act, 1994, SNL 1994, Chapter E-5.1 (the “**EPCA**”); and

IN THE MATTER OF an application by Newfoundland Power Inc. and an application by the International Brotherhood of Electrical Workers, Local 1620 for an order determining the number of essential employees of Newfoundland Power Inc. pursuant to Section 22 of the **EPCA**.

BEFORE:

Kevin Fagan
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1 1 DECISION SUMMARY

2

3 The **EPCA** requires the Board to determine the number of essential employees in each
4 classification of a public utility's bargaining unit if the utility and bargaining agent are unable to
5 agree on the number of such employees.

6

7 Newfoundland Power Inc. ("Newfoundland Power") and the International Brotherhood of
8 Electrical Workers, Local 1620 ("IBEW") both filed applications asking the Board to make an order
9 determining the number of essential employees in each classification of Newfoundland Power's
10 Craft bargaining unit. The full complement of employees in the Craft bargaining unit is 244.

11

12 The parties agreed that the number of essential employees required for Emergency Operations
13 is 208. The parties also agreed on the criteria for Emergency Operations. The Board has
14 determined that the number of essential employees in each classification under Emergency
15 Operations as agreed by Newfoundland Power and the IBEW is 208, as set out in Schedule A.

16

17 The parties were unable to reach agreement on the number of essential employees required for
18 Normal Operations. Newfoundland Power submitted that a total of 104 employees in the Craft
19 bargaining unit should be determined to be essential for Normal Operations and the IBEW
20 submitted that 50 employees should be determined to be essential. The parties agreed on the
21 number of essential employees for some classifications. The Board has determined that the
22 number of essential employees in the Craft bargaining unit for Normal Operations is 85, as set
23 out in Schedule B.

24

25 2 BACKGROUND

26

27 The **EPCA** sets out the provincial power policy which directs that electricity consumers have
28 equitable access to an adequate supply of power. The Board's mandate includes implementing
29 the provincial power policy as outlined in the **EPCA**.

30

31 Newfoundland Power is obligated under the **Act** to provide service and facilities which are
32 reasonably safe and adequate and just and reasonable and also to provide electrical service to
33 any property owner or occupier upon request.

34

35 Section 22 of the **EPCA** sets out the Board's jurisdiction to determine the number of essential
36 employees in each classification. According to section 2(g) of the **EPCA** "essential employee"
37 means:

38

39 1 of a number of employees whose duties consist in whole or in part of duties the
40 performance of which at a particular time or during a specified period of time is or may be
41 necessary for the health, safety or security of the public.

42

43 If the bargaining agent and the retailer are unable to agree on the number of essential employees
44 in each classification of the bargaining unit, either party can apply to the Board for a
45 determination.

1 **3 APPLICATION**

2

3 On July 20, 2023 Newfoundland Power and the IBEW separately filed applications with the Board
4 for an order determining the number of essential employees. On July 27, 2023 the Board advised
5 that the two applications would be joined and proceed as one matter (“Application”).

6

7 Newfoundland Power proposed that 104 employees should be determined to be essential during
8 Normal Operations.¹ The IBEW proposed that 50 employees should be determined as essential
9 during Normal Operations. The following table summarizes the parties’ positions for each
10 classification.

Essential Employees Proposals: Normal Operations		
Classification	Newfoundland Power	IBEW
Electrical Maintenance	12	2
Electrical Maintenance Lead Hand	5	4
Power Plant Maintenance	1	1
Mechanical Maintenance	2	2
Mechanical Maintenance Lead Hand	3	3
Mechanic	1	0
Mechanic-Lead Hand	1	0
Power Line Technician	36	15
Power Line Technician Lead Hand	31	15
Power System Operator Lead Hand	4	4
Power System Operator	6	4
Power System Operator In Training	2	0
Total	104	50

11 Newfoundland Power and the IBEW agreed on a complement of 208 essential employees for
12 Emergency Operations.²

13

14 **4 PROCESS**

15

16 On August 4, 2023 Newfoundland Power filed its Written Statement with the Board.

17

18 On October 31, 2023 Newfoundland Power filed its evidence in support of the Application. On
19 the same date, the IBEW filed its Written Statement and evidence.

¹ Normal Operations reflect system operations under ordinary operating conditions, with no extraordinary circumstances such as severe weather or major supply interruptions affecting the electrical system.

² Emergency Operations occur when supply interruptions or damage to the electrical system due to significant system events or extreme weather events are anticipated or occurring. Emergency Operations are triggered when the threshold criteria that defines a Level 2 emergency in the System Restorations Manual is met. A Level 2 emergency is defined by initiating conditions of between 2,000 and 10,000 customers without power and a restoration effort expected to exceed 24 hours (see Newfoundland Power Evidence, pages 6 and 10).

1 The Board filed Requests for Information (“RFIs”) with both parties on January 17, 2024. The
2 parties exchanged RFIs on the same date. Newfoundland Power and the IBEW replied to the RFIs
3 on February 7, 2024.

4
5 The Board and the parties filed a second round of RFIs on March 13, 2024. Newfoundland Power
6 and the IBEW replied to these RFIs on April 10, 2024. On the same date, the IBEW amended
7 Schedule A of its Written Statement as part of one of its RFI responses and Newfoundland Power
8 filed a revision of its Written Statement.³

9
10 Newfoundland Power and the IBEW filed their final written submissions on September 4, 2024.

11

12 **5 GENERAL CONSIDERATIONS**

13

14 The parties made submissions on how the Board should interpret the relevant legislation, the
15 activities that could be completed by an essential employee and the use of Qualified
16 Management Employees (“QMEs”).

17

18 **5.1 Legislative Considerations**

19

20 The IBEW submitted that the Board must ensure that its interpretation of the **EPCA** fosters a
21 meaningful collective bargaining process and does not go beyond what is reasonably required to
22 ensure the uninterrupted delivery of only the most essential of services during a strike.⁴ The IBEW
23 submitted that the Board’s determination respecting essential employees must be consistent
24 with the values set out in the **Canadian Charter of Rights and Freedoms** (the “**Charter**”).⁵ While
25 the IBEW acknowledged section 37(1) of the **Act** applies, it submitted that the Board should apply
26 a reasonableness standard informed by the circumstances and not designate essential
27 employees to cover all possible risks or perceived dangers, without some evidence of
28 demonstrable harm to the public.⁶

29

30 Newfoundland Power submitted that the determination of a different number of essential
31 employees for Normal Operations and Emergency Operations is sufficient to protect its
32 employees’ **Charter** rights and satisfies the Board’s obligation to balance employees’ **Charter**
33 rights with the public’s right to health, safety and security.⁷

34

35 The Board recognizes that when determining the number of essential employees under the **EPCA**,
36 it must balance the IBEW’s members **Charter** right to participate in a meaningful collective
37 bargaining process with Newfoundland Power’s statutory obligations under the **EPCA** and the
38 **Act**. The Board believes that reductions in the number of employees from the full complement
39 of 244 employees results in economic and labour pressure for both parties. However, the Board
40 does not accept that the separate determination of the number of essential employees for

³ PUB-IBEW-014.

⁴ IBEW Submission, page 12.

⁵ IBEW Submission, page 8.

⁶ IBEW Submission, page 13.

⁷ Newfoundland Power Submission, page 5.

1 Emergency and Normal Operations satisfies the Board’s obligation to balance the interests of
2 both parties. The balancing of employee rights to participate in a meaningful collective bargaining
3 process with the utility’s statutory obligations to provide service, which may be necessary for the
4 health, safety and security of the public, will be considered in the Board’s determination of the
5 number of essential employees for each classification, under both Emergency and Normal
6 Operations.

7

8 **5.2 Work of Essential Employees**

9

10 The IBEW stated that essential employees should not be required to perform non-essential duties
11 during a strike action as it undercuts their ability to participate meaningfully in and influence the
12 process of pursuing collective workplace goals.⁸

13

14 Newfoundland Power submitted that the central consideration for the Board is whether certain
15 employee job duties are, or may at any point become, necessary for the health, safety, or security
16 of the public and that the words “in whole or in part” in the definition of “essential employee”
17 mean that an employee may be an essential employee if any of their work duties are or may be
18 essential during a strike or lockout, regardless of the proportion of a normal work day that is
19 comprised of such a duty.⁹ Newfoundland Power also submitted that because section 22(14) of
20 the **EPCA** requires essential employees to report for work as if a strike or lockout were not taking
21 place, no alteration of the normal job duties of essential employees is necessary, and daily work
22 assignments remain within the discretion of management during a strike or lockout.

23

24 The **EPCA** requires the Board to determine the number of essential employees in each
25 classification. The legislation states that the Board may accept a joint agreement of the parties
26 or make its own determination as to the number of essential employees. An essential employee
27 is one whose duties, in whole or in part, are necessary. As a result, it is not necessary for the
28 Board to determine the specific duties associated with each classification. While the legislation
29 does not set out a scheme requiring an assessment of whether job duties are essential, the work
30 performed by the employees in each classification will be considered by the Board to help inform
31 its determination of whether the employees are essential.

32

33 **5.3 Qualified Management Employees**

34

35 The IBEW submitted that non-unionized management personnel who are qualified to perform
36 some or all of the essential work of its members, known as Qualified Management Employees
37 should to the greatest extent possible be factored into the Board’s determinations to reduce the
38 total number of essential employees.¹⁰ The IBEW submitted that Newfoundland Power should
39 identify how many QMEs there are and individually assess each QME’s ability in relation to the

⁸ IBEW Submission, page 16.

⁹ Newfoundland Power Submission, pages 4-5.

¹⁰ IBEW Evidence, page 7.

1 essential duties of each and provide any necessary training for them to be able to perform
2 essential work.¹¹

3
4 Newfoundland Power stated that there are 23 QMEs that have the necessary credentials to carry
5 out the work of essential Craft bargaining unit employees. However, 19 of the 23 employees are
6 required to supervise the work of essential employees and the remaining four are required to
7 perform necessary operations and support functions, including safety and technical support.
8 Newfoundland Power also submitted that 13 of the 23 managerial employees who might be
9 deemed QMEs have not worked in a relevant Craft position for more than 10 years.¹²

10
11 The Board acknowledges the evidence that a number of the QMEs are engaged in their own full-
12 time work, have not worked in the relevant positions for periods of time and that a determination
13 of medical fitness has not been made.¹³ The Board finds that QMEs may be available on a limited
14 basis and will consider the availability of QMEs in its determination of the number of essential
15 employees in each classification.

16 17 **6 BOARD DECISION**

18 19 **6.1 Emergency Operations**

20
21 Newfoundland Power and the IBEW have agreed on the number of essential employees for
22 Emergency Operations. They have also agreed that the threshold for Emergency Operation
23 conditions should be the circumstances described as a Level 2 emergency in Newfoundland
24 Power's System Restoration Manual.

25
26 **The Board accepts the agreement of the parties and determines that the number of essential**
27 **employees, by classification, during Emergency Operations is 208, as set out in Schedule A.**

28 29 **6.2 Normal Operations**

30
31 The parties have agreed on the number of essential employees for certain classifications. The
32 Board's determination of the number of essential employees for Normal Operations for the
33 remaining classifications are set out in the following sections.

34 35 **6.2.1 Line Operations**

36
37 Employees in the Line Operations classifications are primarily engaged in trouble calls and
38 emergency response, street light repair, and the connection of new customers.¹⁴ The following
39 table sets out the number of essential employees for the Line Operations classifications agreed
40 on by Newfoundland Power and the IBEW.

¹¹ IBEW Submission, pages 17-18.

¹² PUB-NP-001.

¹³ PUB-NP-001

¹⁴ Newfoundland Power Evidence, page 11.

Line Operations Classifications – Agreed by Parties			
Classification	Full Complement	Newfoundland Power Proposal	IBEW Proposal
Power Line Technician Apprentice	14	0	0
Transmission and Distribution Planner	10	0	0
Total	24	0	0

- 1 The parties do not agree on the number of essential employees required for the Power Line
 2 Technicians and Power Line Technician Lead Hands classifications. The following table sets out
 3 the number of essential employees proposed by Newfoundland Power and the IBEW for these
 4 classifications.

Line Operations Classifications – Not Agreed by Parties			
Classification	Full Complement	Newfoundland Power Proposal	IBEW Proposal
Power Line Technician	68	36	15
Power Line Technician Lead Hand	63	31	15
Total	131	67	30

- 5 Newfoundland Power and the IBEW provided a breakdown of the number of proposed essential
 6 employees necessary for each operational group in Line Operations. As set out in the following
 7 table, there is a wide divergence between the parties for each of these groups.

Line Operations Classifications – Operational Group		
Operational Group	Newfoundland Power Proposal	IBEW Proposal
Trouble Calls and Street Light Repair	42	30
New Service Connections	20	0
Workforce Planning	5	0
Total	67	30

8 **Trouble Call Response and Street Light Repair**

9

- 10 Newfoundland Power stated that a trouble call is any customer call related to a customer's
 11 electrical service or the infrastructure used to provide service that requires an immediate field
 12 response. Newfoundland Power submitted that when it determines that there is a risk of a
 13 customer outage or a risk to an individual's health, safety, or security, an immediate field
 14 response is required and the call is considered a trouble call. Newfoundland Power reported that

1 on average, its Power Line Technician crews respond to 27 trouble calls daily.¹⁵ Newfoundland
2 Power stated it is obligated to be responsive 24/7 to trouble calls throughout its service territory,
3 and that such coverage is required to support the health, safety, or security of the public.¹⁶
4

5 Newfoundland Power submitted that a response to trouble calls involves a two-person crew with
6 a targeted response time of two hours. According to Newfoundland Power, it may not be able to
7 maintain this service level when staffing is reduced.¹⁷ Newfoundland Power stated that to
8 determine the total number of essential employees required for trouble call response, it
9 considered the number of Power Line Technicians needed to respond to the average volume of
10 trouble calls in each of its three regions, taking into consideration the region's size, typical
11 weather conditions, and the distances involved in providing a field response. Newfoundland
12 Power indicated its service crews are strategically placed in all service areas to enable effective
13 response to trouble calls.¹⁸
14

15 Newfoundland Power submitted that timely street light repairs are necessary to ensure public
16 safety because street lights increase visibility, which enhances the safety of the driving public,
17 contributes to pedestrian safety, increases safety around crosswalks and intersections, and
18 deters crime and vandalism.¹⁹ Newfoundland Power submitted that street light repairs typically
19 involve a two-person crew with a targeted response time of five business days.²⁰ Newfoundland
20 Power reported that on average, its Power Line Technician crews respond to 49 street light
21 repairs daily.²¹ Newfoundland Power stated it prioritizes trouble call response over street light
22 repairs and new service connections and does not have a separate number of essential
23 employees specifically for trouble call response and another number specifically for street light
24 repairs.²²
25

26 The IBEW agreed that trouble calls represent the most important area where essential employees
27 are needed. However, the IBEW stated that the majority of trouble calls are less severe in nature,
28 such as flickering lights or fluctuating voltage, and can be deferred or checked by non-union
29 technicians, damage assessors, engineering technologists, and QMEs.²³ The IBEW submitted that
30 Newfoundland Power has not provided sufficient evidence to establish that delays in responding
31 to non-emergency trouble calls are unsafe or dangerous to the public, nor has it provided
32 information on what would be the maximum acceptable response timelines during a strike or
33 lockout.²⁴ The IBEW submitted that Newfoundland Power's given response times are not the
34 minimum for adequate service and do not reflect the baseline for preservation of public health,

¹⁵ PUB-NP-004.

¹⁶ PUB-NP-004.

¹⁷ Newfoundland Power Evidence, pages 12-13.

¹⁸ PUB-NP-004.

¹⁹ PUB-NP-004.

²⁰ Newfoundland Power Evidence, page 13.

²¹ PUB-NP-004.

²² PUB-NP-004 and IBEW-NP-016.

²³ IBEW Evidence, page 10.

²⁴ IBEW Submission, page 19.

1 safety, or security.²⁵ The IBEW submitted that 24/7 coverage is not a reasonable standard given
2 that such coverage is often not available in many areas under current Normal Operations.²⁶

3
4 The IBEW submitted that there are very few circumstances in which street light repairs would be
5 considered an emergency circumstance and in those instances, urgent repairs could be
6 addressed through proper triage and prioritization by central dispatch.²⁷ The IBEW stated that
7 the duties of essential Power Line Technicians should only consist of duties that are necessary for
8 the health, safety, or security of the public and should not include non-essential duties such as
9 non-emergency street light repairs.²⁸

10

11 **New Service Connections**

12

13 Newfoundland Power submitted that its statutory obligation to connect new customers is not
14 displaced during a strike or lockout.²⁹ Newfoundland Power stated that new service connections
15 are necessary for the health, safety, or security of the public as delays in connections cause
16 degradation and mold in buildings, homelessness, financial insecurity, financial strain on
17 businesses, and interruptions in the provision of life support systems.³⁰ Newfoundland Power
18 also stated that connecting electrical service to new government infrastructure is required to
19 ensure the safe operation of critical infrastructure such as traffic signals, pumps associated with
20 municipal water supplies and sewer systems, and new facilities such as fire services, hospitals,
21 and police.³¹ Newfoundland Power reported that on average it responds to 13 to 14 new
22 customer connections a day.³² Newfoundland Power stated that employees available for new
23 service connections are also necessary to provide the capacity to manage variable work
24 requirements for trouble calls and maintain 24/7 coverage.³³

25

26 The IBEW submitted that new service connections are not essential and that delayed service
27 connections generally do not pose a risk to health, safety or security of the public.³⁴ The IBEW
28 submitted that while delays in new service connections may be inconvenient, they only affect
29 the individual customer and do not present any immediate danger to the public.³⁵ The IBEW
30 submitted that any urgent requests for new service connections can be dealt with through proper
31 triage and prioritization based on the circumstances.³⁶

²⁵ IBEW Evidence, page 11.

²⁶ IBEW Submission, page 20.

²⁷ IBEW Evidence, page 8.

²⁸ IBEW Submission, page 21.

²⁹ Newfoundland Power Submission, page 13.

³⁰ PUB-NP-005.

³¹ PUB-NP-005.

³² PUB-NP-004.

³³ PUB-NP-004.

³⁴ IBEW Evidence, page 9.

³⁵ IBEW Submission, page 22.

³⁶ IBEW Evidence, page 9.

1 **Workforce Planning**

2

3 Newfoundland Power submitted that the normal absenteeism rate for the Craft bargaining unit
4 is 5% and that it will have to continue to manage absences in a strike or lockout. To ensure
5 adequate coverage of essential work requirements when employees named as essential
6 employees are absent, Newfoundland Power proposed that the number of essential employees
7 include an additional five Power Line Technicians.

8

9 The IBEW submitted that essential employees should not be designated to provide human
10 resource flexibility to Newfoundland Power in case of absenteeism. The IBEW submitted that
11 Newfoundland Power should be required to make use of section 22(12) of the **EPCA** which states:

12

13 The retailer may substitute the name of an employee who is essential for the name of
14 another employee who is essential but the number of employees named shall not exceed
15 the number considered to be essential as jointly agreed upon under subsection (1) or
16 determined by the public utilities board to be essential under subsection (2) or (8).

17

18 The IBEW submitted that this section is the legislature's intended mechanism for providing
19 human resource flexibility during a labour interruption and specifically contemplates the
20 necessity of substituting essential employees for the purpose of keeping a minimum number of
21 designated essential employees. The IBEW submitted that Newfoundland Power should not have
22 the benefit of both section 22(12) and additional employees designated for workforce planning
23 purposes.³⁷

24

25 Board Decision

26

27 In considering the Application, the Board must assess whether the number of essential
28 employees proposed is consistent with the statutory obligations of the Board and Newfoundland
29 Power and the right of IBEW members to engage in a meaningful collective bargaining process.
30 While the full complement of employees for the Line Operations classifications is 155, the parties
31 agreed that there are no essential employees in the Power Line Technician Apprentice
32 classification or the Transmission and Distribution Planner classification. The Board accepts the
33 agreement of the parties with respect to these classifications.

34

35 The party's disagreement with respect to Line Operations relates to the number of essential
36 employees for the Power Line Technician and Power Line Technician Lead Hand classifications.
37 Newfoundland Power proposed 67 essential employees for these classifications and the IBEW
38 proposed 30 essential employees.

39

40 The Board notes that Line Operations are integral to Newfoundland Power's obligation to provide
41 adequate electrical service and supply electrical energy in response to customer requests, as it
42 involves responding to trouble calls, addressing street light repair and completing new
43 connections.

³⁷ IBEW Submission, page 23.

- 1 • In terms of trouble calls, the evidence is clear that an immediate response by employees
2 in Line Operations is required and that the nature and volume of trouble calls varies daily.
3 The Board accepts that Newfoundland Power must have employees available at all times
4 to respond to trouble calls and that it is often necessary to respond to a trouble call to
5 assess the severity of the situation.³⁸ In addition standby service is critical to ensuring
6 employee availability and providing 24/7 trouble response in all areas.³⁹ The Board
7 accepts that there could be severe consequences to the health, safety, or security of the
8 public if Newfoundland Power cannot respond to trouble calls on a timely basis.
- 9 • In terms of street light repair, the Board recognizes that street lights play an important
10 role in assuring the safety of drivers and pedestrians and in deterring crime and vandalism
11 and accepts the evidence that deferring street light repairs would not impact the number
12 of essential employees required for Line Operations.⁴⁰
- 13 • In terms of new connections, the Board does not accept IBEW's position that new
14 connections are not essential given Newfoundland Power's statutory requirements to
15 provide adequate electrical service and to supply energy in response to customer
16 requests. The Board accepts that there could be severe consequences to the health,
17 safety, or security of the public if Newfoundland Power does not provide new service
18 connections on a timely basis.
- 19 • In terms of workforce planning for Line Operations, the Board agrees that section 22(12)
20 of **EPCA** is a mechanism to address human resource flexibility or workforce planning but
21 does not accept that this is an effective mechanism for daily workforce management and
22 accepts that it is reasonable to include some provision for workplace planning.

23

24 With the geographic proximity of some regional offices, the Board believes that there may be
25 opportunity for Newfoundland Power to share resources between regions or that Newfoundland
26 Power may prioritize and schedule work associated with trouble calls, street light repair and new
27 connections with slightly longer response times. The Board also believes that appropriate QMEs
28 may be able to assist with certain Line Operations requirements and that the workforce planning
29 requirements are lower than submitted by Newfoundland Power.

30

31 In considering the balance between the IBEW members' right to engage in a meaningful collective
32 bargaining process with Newfoundland Power's obligation to provide service which may be
33 necessary for the health and safety and security of the public, the Board does not accept the
34 number of Power Line Technicians or Power Line Technicians Lead Hands proposed by
35 Newfoundland Power or the IBEW. The Board finds Newfoundland Power's proposal to designate
36 36 Power Line Technicians and 31 Power Line Technicians Lead Hands as essential employees is
37 higher than necessary based on the opportunity for flexibility in scheduling, prioritizing and
38 managing work and the availability of QMEs. The Board finds the IBEW's proposed complement
39 of 15 Power Line Technicians and 15 Power Line Technicians Lead Hands as essential employees
40 is insufficient given the geographic distribution of Newfoundland Power's operations and the
41 volume and criticality of Line Operations work.

³⁸ PUB-NP-004.

³⁹ IBEW-NP-031.

⁴⁰ IBEW-NP-016.

1 **The Board determines that the number of essential employees for the:**

- 2 (i) **Power Line Technician classification is 28; and**
 3 (ii) **Power Line Technician Lead Hand classification is 23.**

4
 5 **The Board accepts the agreement of the parties and determines that the number of essential**
 6 **employees for the:**

- 7 (i) **Power Line Technician Apprentice classification is 0; and**
 8 (ii) **Transmission and Distribution Planner classification is 0.**

9
 10 **6.2.2 Substation and Generation Operations**

11
 12 Substation and Generation Operations employees are involved in substation and generation
 13 maintenance and inspection. The following table sets the number of essential employees for the
 14 Substation and Generation Operations classifications agreed on by Newfoundland Power and the
 15 IBEW.

Substation and Generation Operations Classifications – Agreed by Parties			
Classification	Full Complement	Newfoundland Power Proposal	IBEW Proposal
Planner Electrical Maintenance	3	0	0
Electrical Maintenance Centre Maintenance	2	0	0
Mechanical Maintenance	6	2	2
Mechanical Maintenance Lead Hand	3	3	3
Planner Generation	1	0	0
Power Plant Maintenance	1	1	1
Total	16	6	6

16 The following table sets out the number of essential employees proposed by Newfoundland
 17 Power and the IBEW for the classifications that the parties did not agree on.

Substation and Generation Operations Classifications - Not Agreed by Parties			
Classification	Full Complement	Newfoundland Power Proposal	IBEW Proposal
Electrical Maintenance	20	12	2
Electrical Maintenance Lead Hand	5	5	4
Total	25	17	6

18 **Substation Operations**

19
 20 Newfoundland Power stated that Substation Operations employees are primarily responsible for
 21 executing planned substation equipment maintenance and refurbishment, repairing equipment
 22 that fails in-service, managing spare equipment, acceptance testing of new equipment, and

1 installing and commissioning new equipment associated with substation capital construction
2 projects.⁴¹

3
4 Newfoundland Power submitted that during a strike, it is essential to public and worker safety,
5 and to the ongoing reliability of electrical service, that it continue to carry out substation
6 inspections and emergency maintenance. Newfoundland Power also submitted that it requires
7 qualified and experienced personnel to safely operate high-voltage substation equipment and to
8 repair or replace equipment that fails in-service.⁴² Newfoundland Power submitted that it
9 considers breaker acceptance testing, breaker maintenance, substation power transformer
10 maintenance and response to failures, oil sampling, regulator acceptance testing, call outs and
11 other related work as vital for the safe provision of an adequate supply of power to the public.⁴³

12
13 The IBEW submitted that during a strike or lockout, essential Substation Operations would only
14 require substation checks every six weeks, responding to substation level outages, and repairing
15 equipment in emergencies.⁴⁴ The IBEW submitted that many substation duties such as breaker
16 acceptance testing, breaker failure restoration, transformer maintenance, transformer failure,
17 oil sampling, regulator acceptance testing, call outs, and capital work are not essential and can
18 be safely deferred or addressed with fewer employees.⁴⁵ Further, substation checks can be
19 performed by QMEs and other non-unionized employees.⁴⁶ The IBEW submitted that
20 Newfoundland Power's proposal reflects a higher degree of response capability than is currently
21 in place.⁴⁷

22

23 **Generation Operations**

24

25 Generation Operations employees are primarily responsible for the maintenance of
26 Newfoundland Power's hydro plants and for maintaining the capability to operate Newfoundland
27 Power's standby gas turbines and diesel generating units.

28

29 Newfoundland Power submitted that employees are required to maintain hydro generation
30 operations, provide minimum capability to repair or replace generating equipment that fails in
31 service, and to operate standby gas turbine and diesel generation equipment when required.⁴⁸
32 Newfoundland Power stated that it considers its hydro plants necessary for reliable service to
33 customers at least-cost.⁴⁹ Newfoundland Power submitted that its hydro plants provide supply
34 to the island electrical grid in the event of supply shortages and provide backup supply to
35 customers served by radial transmission lines in the event of transmission line outages.
36 Newfoundland Power submitted that it needs sufficient resources to conduct regular inspections,

⁴¹ Newfoundland Power Evidence, page 22.

⁴² Newfoundland Power Evidence, page 22.

⁴³ Newfoundland Power Submission, page 16.

⁴⁴ IBEW Evidence, page 12.

⁴⁵ IBEW Evidence, pages 12-13.

⁴⁶ IBEW Submission, page 24.

⁴⁷ NP-IBEW-057.

⁴⁸ Newfoundland Power Evidence, pages 26-27.

⁴⁹ PUB-NP-010.

1 to repair, replace or maintain generating equipment that fails in-service, and to ensure
2 compliance with environmental regulations.⁵⁰ Newfoundland Power also submitted that daily
3 visits or operational checks are necessary to ensure safety of the public in relation to water
4 control structures.⁵¹

5
6 The IBEW submitted that Newfoundland Power's generation plants are automated to run
7 remotely and the frequency of inspections can safely be reduced to once a week. The IBEW also
8 submitted that any necessary inspections can be done by QMEs and other non-unionized
9 employees and, if required, more detailed inspections by Craft bargaining unit employees could
10 be requested and conducted within a time period that does not present any risk to the public.
11 The IBEW submitted that based on current practices, Generation Operations can be safely
12 reduced during a strike without detrimental effects on reliability. The IBEW emphasized that the
13 test is not what is required for least-cost service, but what is sufficient to preserve the health,
14 safety, or security of the public.

15 16 Board Decision

17
18 The Board accepts that it is necessary for Newfoundland Power to maintain substation and
19 generation facilities to meet its obligation under the **Act** to provide reliable service to customers
20 and for the health, safety and security of the public. The Board has concerns that Newfoundland
21 Power's ability to provide reasonably safe and adequate electrical service could be jeopardized if
22 Newfoundland Power cannot perform necessary inspection and maintenance on its substation
23 and generation assets, or if such maintenance was not performed by employees with current and
24 up to date training and credentials and experience. While the Board accepts that regular
25 inspections and repairs are essential and cannot be reduced to the level proposed by the IBEW,
26 the Board believes that inspection and maintenance schedules can be managed to reduce the
27 level of essential employees below the number proposed by Newfoundland Power and that
28 QMEs may be able to assist with certain Substation and Generation Operations requirements.

29
30 In considering the balance between the IBEW members' right to engage in a meaningful collective
31 bargaining process with Newfoundland Power's responsibility to provide service which may be
32 necessary for the health and safety and security of the public, the Board determines that
33 maintenance, inspections and repairs of substation and generation assets are required but that
34 accommodations may be made to maintenance and inspection schedules and that QMEs may be
35 able to assist. The Board finds that the number of essential employees proposed by
36 Newfoundland Power is too high and the number proposed by the IBEW is too low.

37
38 **The Board determines the number of essential employees for the:**

- 39 **(i) Electrical Maintenance classification is 10; and**
40 **(ii) Electrical Maintenance Lead Hand classification is 5.**

⁵⁰ Newfoundland Power Evidence, pages 25-26.

⁵¹ Newfoundland Power Submission, page 18.

1 **The Board accepts the agreement of the parties and determines that the number of essential**
 2 **employees for the:**

- 3 (i) **Planner Electrical Maintenance classification is 0;**
 4 (ii) **Electrical Maintenance Centre Maintenance classification is 0;**
 5 (iii) **Mechanical Maintenance classification is 2;**
 6 (iv) **Mechanical Maintenance Lead Hand classification is 3;**
 7 (v) **Planner Generation classification is 0; and**
 8 (vi) **Power Plant Maintenance classification is 1.**

9
 10 **6.2.3 Power System Operations**

11
 12 Newfoundland Power's System Control Centre provides 24/7 monitoring and control of the
 13 electricity system. The following table sets out the number of essential employees in the Power
 14 System Operations classifications agreed on by Newfoundland Power and the IBEW.

Power System Operations Classifications - Agreed by Parties			
Classification	Full Complement	Newfoundland Power Proposal	IBEW Proposal
Power System Operator Lead Hand	4	4	4
Total	4	4	4

15 The following table sets out the number of essential employees proposed by Newfoundland
 16 Power and the IBEW in the Power System Operations classifications that the parties did not agree
 17 on.

Power System Operations Classifications - Not Agreed by Parties			
Classification	Full Complement	Newfoundland Power Proposal	IBEW Proposal
Power System Operator	6	6	4
Power Line Operator in Training	3	2	0
Total	9	8	4

18 Newfoundland Power submitted that Power System Operators are highly trained and
 19 experienced in electricity system operations, monitoring and control. Newfoundland Power
 20 submitted that 12 employees are needed for Power System Operations to allow for the standard
 21 deployment of three System Control Centre staff members on each 12-hour shift at the System
 22 Control Centre.⁵² Newfoundland Power stated that four teams of three employees are required
 23 to maintain 24/7 staffing and allow for a single team member to become unavailable due to
 24 illness or other anticipated absence without interrupting operations. Newfoundland Power did

⁵² This includes the 4 agreed Power System Operator Lead Hands.

1 not propose designating all System Control Centre staff members because one Power System
2 Operator in Training is not yet qualified to participate in shift rotation.⁵³

3
4 The IBEW submitted that the System Control Centre is often staffed by four teams of two
5 employees throughout the year, due to illness, leave, or vacation. The IBEW also stated that when
6 a staff member has retired, System Control Centre staff positions have been left vacant for
7 months at a time. In these circumstances, Newfoundland Power pulls employees from other
8 shifts or allocates overtime to ensure at least two System Control Centre staff members are on
9 duty. The IBEW submitted that Newfoundland Power has demonstrated the ability to regularly
10 operate safely with two-person teams and that eight essential employees in total are
11 appropriate.⁵⁴

12 Board Decision

13
14
15 The Board accepts that the System Control Centre is essential in the day-to-day operation of the
16 electrical system and requires 24/7 staffing. The Board also accepts that Power System Operators
17 are highly trained and experienced in electricity system operations, monitoring and control. The
18 Board notes that the number of Power System Operators available for the last three years has
19 been greater than eight, and that the number of Power System Operators on duty may be
20 reduced to two only during optimal conditions and may be increased to four during times of
21 escalating trouble.⁵⁵

22
23 In considering the balance between the IBEW members' right to engage in a meaningful collective
24 bargaining process with Newfoundland Power's obligation to provide service which may be
25 necessary for the health and safety and security of the public, the Board determines that the
26 System Control Centre requires staffing at the same levels it would as if a strike or lockout were
27 not taking place. The Board finds that the 12-employee complement proposed by Newfoundland
28 Power are essential.

29
30 **The Board determines that the number of essential employees for the:**

- 31 (i) **Power System Operator classification is 6; and**
32 (ii) **Power System Operator In-Training classification is 2.**

33
34 **The Board accepts the agreement of the parties and determines that the number of essential**
35 **employees under the Power System Operator Lead Hand classification is 4.**

36 37 **6.2.4 Vehicle Service Centre**

38
39 The Vehicle Service Centre is responsible for the inspection and maintenance of Newfoundland
40 Power's heavy fleet, insulated devices and hydraulic systems. The parties did not agree on the
41 number of essential employees for either of the Vehicle Service Centre classifications. The

⁵³ Newfoundland Power Evidence, page 29.

⁵⁴ IBEW Submission, page 26.

⁵⁵ IBEW-NP-028.

1 following table sets out the number of essential employees proposed by Newfoundland Power
2 and the IBEW for these classifications.

Vehicle Service Centre			
Classification	Full Complement	Newfoundland Power Proposal	IBEW Proposal
Mechanic	1	1	0
Mechanic Lead Hand	1	1	0
Total	2	2	0

3 Newfoundland Power stated that its Vehicle Service Centre is staffed by two specially trained and
4 qualified mechanics who inspect and maintain its heavy fleet vehicles, including insulated aerial
5 devices and hydraulic systems.⁵⁶ Newfoundland Power submitted that due to the limited
6 availability of outside mechanics with the necessary training and skills, both its Mechanic and
7 Mechanic Lead Hand employees are essential.⁵⁷ Newfoundland Power stated that while it does
8 use outside garages to supplement its ability to service heavy fleet vehicles, it does not have
9 operational experience relying solely on outside garages and does not believe adequate servicing
10 could be maintained for an extended period by only utilizing third party garages.⁵⁸ Newfoundland
11 Power submitted that an inability to utilize the Vehicle Service Centre would cause a growing
12 backlog of equipment in need of maintenance and if an emergency were to arise, it may have an
13 insufficient number of heavy fleet vehicles available to ensure an adequate response.

14
15 The IBEW submitted that the two employees in the Vehicle Service Centre are not essential
16 employees. The IBEW stated that in areas outside the Avalon Peninsula, fleet vehicles are
17 serviced by third party garages and that there have been many instances of vehicles on the
18 Avalon being serviced by third party garages. The IBEW also stated that during a strike the
19 workforce would be reduced substantially and there would be a corresponding decrease in the
20 use of fleet vehicles and the need for repairs. The IBEW submitted that employees in the Vehicle
21 Service Centre classifications should not be considered essential as all vehicles can be adequately
22 inspected and serviced by outside service providers.⁵⁹

23
24 Board Decision

25
26 The Board accepts that inspection and maintenance of Newfoundland Power's fleet requires
27 specialized training and qualifications. The Board acknowledges that while the number of repairs
28 needed during a strike may decrease, Newfoundland Power must still maintain an adequate
29 supply of heavy fleet vehicles for Normal Operations, and to be available for emergency response

⁵⁶ Newfoundland Power Evidence, page 30.

⁵⁷ Newfoundland Power Evidence, page 31.

⁵⁸ PUB-NP-011.

⁵⁹ IBEW Submission, page 27.

1 capability. An inability by Newfoundland Power to utilize its Vehicle Service Centre could cause a
2 backlog of equipment in need of maintenance.⁶⁰

3
4 The Board is satisfied that the Vehicle Service Centre should remain operational even with
5 possible reduced maintenance requirements. The Board believes that appropriate QMEs may be
6 able to assist with certain Vehicle Service Centre requirements. In considering the balance
7 between the IBEW members' right to engage in a meaningful collective bargaining process with
8 Newfoundland Power's obligation to provide service which may be necessary for the health,
9 safety and security of the public, the Board determines that the potential reduced usage of the
10 fleet and availability of QMEs can permit a reduction in the full complement of employees.

11

12 **The Board determines that the number of essential employees for the:**

- 13 (i) **Mechanic classification is 0; and**
14 (ii) **Mechanic-Lead Hand classification is 1.**

15

16

17 **7 BOARD ORDER**

18

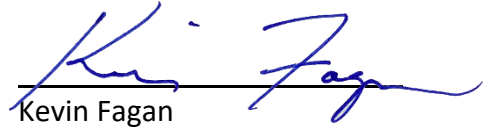
19 **IT IS THEREFORE ORDERED THAT:**

20

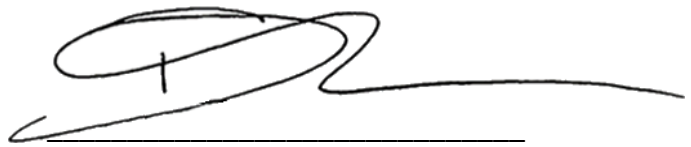
- 21 **1. The Board determines the number of essential employees, by classification, during**
22 **Emergency Operations is 208, as set out in Schedule A.**
23
24 **2. The Board determines the number of essential employees, by classification, during**
25 **Normal Operations is 85, as set out in Schedule B.**
26
27 **3. Newfoundland Power shall pay the costs and expenses of the Board arising from the**
28 **Application.**

⁶⁰ Newfoundland Power Submission, page 21.

DATED at St. John's, Newfoundland and Labrador, this 30th day of January 2025.



Kevin Fagan
Chair and Chief Executive Officer



Dwanda Newman, LL.B.
Vice-Chair



Christopher Pike, LL.B., FCIP
Commissioner



Jo-Anne Galarneau
Executive Director and Board Secretary

Essential Employees – Emergency Operations	
Classification	Number of Essential Employees
<i>Agreed by the Parties</i>	
Distribution Maintenance	0
Electrical Maintenance	20
Electrical Maintenance Lead Hand	5
Maintenance EMC	0
Materials Handler	0
Materials Handler Lead Hand	0
Mechanic	1
Mechanic Lead Hand	1
Mechanical Maintenance	6
Mechanical Maintenance Lead Hand	3
Metering Clerk	0
Meter Reader	0
Meter Technician	0
Meter Technician Lead Hand	0
Planner	14
Power Line Technician	68
Power Line Technician Apprentice	14
Power Line Technician Lead Hand	63
Power Plant Maintenance	1
Power Plant Maintenance Lead Hand	0
Power System Operator	6
Power System Operator in Training	2
Power System Operator Lead Hand	4
Property Utilityperson	0
Protective Equipment Tester	0
Underground Locator	0
Utility Arborist	0
Total	208

Essential Employees – Normal Operations	
<i>Classification</i>	Number of Essential Employees
<i>Agreed by the Parties</i>	
Distribution Maintenance	0
Maintenance EMC	0
Materials Handler	0
Materials Handler Lead Hand	0
Metering Clerk	0
Meter Reader	0
Meter Technician	0
Meter Technician Lead Hand	0
Planner	0
Power Plant Maintenance Lead Hand	0
Property Utilityperson	0
Protective Equipment Tester	0
Underground Locator	0
Utility Arborist	0
Mechanical Maintenance	2
Mechanical Maintenance Lead Hand	3
Power Plant Maintenance	1
Power System Operator Lead Hand	4
<i>Not Agreed by the Parties</i>	
Powerline Technician	28
Powerline Technician Lead Hand	23
Electrical Maintenance	10
Electrical Maintenance Lead Hand	5
Power System Operator	6
Power System Operator in Training	2
Mechanic	0
Mechanic Lead Hand	1
TOTAL	85

Newfoundland & Labrador
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES
120 TORBAY ROAD, ST. JOHN'S, NL

Website: www.pub.nl.ca
E-mail: board@pub.nl.ca

Telephone: 1-709-726-8600
Toll free: 1-866-782-0006
