

Office of the Consumer Advocate

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July 31, 2019

Board of Commissions of Public Utilities
120 Torbay Road, P.O. Box 2140
St. John's, NL A1A 5B2

**Attention: G. Cheryl Blundon, Director of
Corporate Services / Board Secretary**

Dear Ms. Blundon:

RE: Newfoundland Power's 2020 Capital Budget Application

Further to the above-captioned, enclosed please find enclosed the original and twelve (12) copies of the Consumer Advocate Intervenor Submission.

A copy of this letter, together with enclosure, has been forwarded directly to the parties listed below.

Yours truly,



Dennis Browne, Q.C.

/jl
Enclosure

cc **Newfoundland Power Inc.**
NP Regulatory (regulatory@newfoundlandpower.com)
Gerard Hayes (ghayes@newfoundlandpower.com)

Newfoundland & Labrador Hydro
NLH Regulatory (NLHRegulatory@nlh.nl.ca)
Shirley Walsh (ShirleyWalsh@nlh.nl.ca)

Board of Commissioners of Public Utilities
Cheryl Blundon (cblundon@pub.nl.ca)
Jacqui Glynn (jblynn@pub.nl.ca)
Maureen Greene (mgreene@pub.nl.ca)
PUB Official Email (ito@pub.nl.ca)

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

IN THE MATTER OF capital expenditures and rate base of Newfoundland Power Inc. (“NP”); and

IN THE MATTER OF an application by Newfoundland Power Inc. for an order pursuant to Sections 41 and 78 of the Act:

- (a) approving a 2020 Capital Budget of \$96,614,000;
- (b) approving certain capital expenditures related to multi-year projects commencing in 2020; and
- (c) fixing and determining a 2018 rate base of \$1,117,341,000 (the Application).

CONSUMER ADVOCATE INTERVENOR SUBMISSION

Re: NP 2020 Capital Budget Application

Overview

1. Newfoundland Power Inc. (“NP”) filed the above-referenced application with the Public Utilities Board on July 5, 2019.
2. On July 24, 2019 Newfoundland and Labrador Hydro filed with the Public Utilities Board a Notice of Intention to Participate in reference to the above-referenced Application.
3. The Consumer Advocate (the “Consumer Advocate”) appointed as set out in Section 117 of the *Public Utilities Act* will intervene in the above referenced Application to represent these purposes:
 - a. To represent consumers in all matters pertaining to the Application;

- b. To advocate that the Board apply the policy established under the *Electrical Power Control Act* 1994 (the “Act”) and in particular to ensure that the Application will result in power being delivered to consumers at the lowest possible cost consistent with reliable service;
 - c. To attend conferences and hearings, as the case may be, and to file Requests for Information and written submission;
 - d. And to all matters relating to the foregoing.
4. The NP 2020 Capital Budget includes multi-year projects and 2021 capital expenditures totaling \$8,914,000. These multiple year projects require further scrutiny. The Government has directed the PUB to undertake a reference on rate mitigation and options (the Reference).
5. This Reference is in process and will deal with - inter alia - duplications between NP and NLH. The NP’s 2020 Capital Budget seems to ignore the Reference’s objectives, and assumes business as usual. This is certainly not the case given our current circumstances. Also, NP’s customers base remains flat so why is the rate base increasing through capital expenditures in these circumstances. There is no evidence in NP’s Application to address these issues.

THE ACT

6. Section 37 of the *Public Utilities Act*, RSNL 1990, c. P-47 (the “Act”) sets out:

Adequate service to be provided by public utility

37(1) A public utility shall provide service and facilities which are reasonably safe and adequate and just and reasonable.

- (2) The board may either with or without notice to a public utility make an order appointing a person to make examinations, investigations or tests for the purpose of ascertaining whether service reasonably safe and adequate and just and reasonable is being supplied by the public utility and may in the order make provision as to the remuneration and expenses the person is to be paid by the public utility where the board certifies that they are payable.

7. Section 41 of the Act states:

Capital budget of public utility

- 41.(1) A public utility shall submit an annual capital budget of proposed improvements or additions to its property to the board for its approval not later than December 15 in each year for the next calendar year, and the budget shall include an estimate of contributions toward the cost of improvements or additions to its property the public utility intends to demand from its customers.
- (2) The budget shall contain an estimate of future required expenditures on improvements or additions to the property of the public utility that will not be completed in the next calendar year.

8. Section 3(b) of the *Electrical Power Control Act, 1994* SNL 1994, c. E-5.1 (the “EPCA”) states:

Power policy

3. It is declared to be the policy of the province that
- ...
- (b) all sources and facilities for the production, transmission and distribution of power in the province should be managed and operated in a manner
- (i) that would result in the most efficient production, transmission and distribution of power,
- (ii) that would result in consumers in the province having equitable access to an adequate supply of power,

- (iii) that would result in power being delivered to consumers in the province at the lowest possible cost consistent with reliable service,

...

and, where necessary, all power, sources and facilities of the province are to be assessed and allocated and re-allocated in the manner that is necessary to give effect to this policy;

CONCLUSION

9. In a previous PUB submission, the Consumer Advocate made the following reference:

In Board Order No. P.U. 26 (2011), the Board stated that it shared the Consumer Advocate's concern about the increasing levels of planned capital for both utilities in the province.

10. NP's Rate Base in 2012 was \$883,000,000 rising in 2014 to \$966,000,000 and in 2016 it crossed to \$1,061,000,000. If granted, this capital budget, will ensure NP's 2018 rate base will be fixed and determined at \$1,117,341,000. NP's Rate Base therefore will have increased in just 6 years by 27%. However NP's customer base remains flat so why is the rate base increasing through increased capital expenditures now? Where is NP's explanation?
11. It must also be recognized that NP's SADI and SAFI reliability indicators show that NP's average duration of outages is approximately half the Canadian average since 2008. Why is there not a decrease in capital expenditure given the fact the reliability indicators for the system are already superior?
12. With a declining and aging population and with the introduction of the costs associated with Muskrat Falls, affordable electricity is the issue. With flat sale together with the foregoing how can annual capital budget expenditures by NP remain sustainable?

13. It may be that the rate base system needs adjustment. New systems have to be devised following hearings and public consultations. Legislative changes will be required. That should be our focus going forward consistent with the objective of the Reference to ensure affordable electricity.
14. Consistent with the Reference, NP's Capital Budget Application should ensure that all sources and facilities for the production, transmission and distribution of the power system are managed and operated in a manner that results in reliable power delivered to customers at the lowest possible cost. No NP capital budget items should be allowed without a statement regarding possible duplication and how these have been addressed and why these expenditures are required in a flat sales environment.
15. Finally, this Application is untimely and inconsistent with the PUB's mandate in the Reference. In presenting the Reference to the PUB the Government stated:


Government's position is that the projected rate increases associated with Muskrat Falls Project are not acceptable. Without intervention these projected rate increases would likely cause financial hardship for customers and all classes on the island portion of Newfoundland and Labrador (the "Ratepayer"). With the assistance of the Board the Government of Newfoundland and Labrador wished to examine options to reduce the impact of the Muskrat Falls Project on rates.

16. The Board commissioned Liberty and Synapse to provide reports including any evidence of duplication between the two utilities from which ratepayers could achieve costs savings. The Reference is ongoing and until Liberty and Synapse are satisfied there are no such possible duplications in capital budget applications such applications should not be approved. The Reference issues are still in process and expansive capital budget expenditures are unreasonable and untimely.

17. Based on the foregoing the Consumer Advocate's participation in the hearing will including any and all of the following:

- a. Participating in technical conferences and/or hearings as the case may be;
- b. Directing Requests for Information to NP and other parties;
- c. Cross-examining witnesses who testify in this matter;
- d. Submitting submissions and other representations to the PUB; and
- e. In other ways in which the PUB reasonably see fit given the circumstances.

DATED at St. John's, Newfoundland and Labrador, this 31 day of July, 2019.



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