

1 **Q. Further to PUB-NP-001, please explain why Newfoundland Power would apply for**
2 **approval to include assets in regulated rate base if the associated rate for the use of**
3 **the assets and the recovery of the costs will not be regulated? Please explain why**
4 **this treatment of assets is appropriate and if it is in keeping with sound utility**
5 **practice.**

6
7 **A. A. Introduction**

8
9 Newfoundland Power's *2021 Electrification, Conservation and Demand Management*
10 *Application* ("Newfoundland Power's Application") continues longstanding customer
11 conservation and demand management ("CDM") programs and introduces customer
12 electrification programs.

13
14 Customer electrification programs focus primarily on increasing the adoption of electric
15 vehicles ("EVs") in the province.¹ Planned programs include incentives for residential
16 and commercial customers to purchase EVs and chargers. Utility investment in public
17 charging infrastructure is proposed to enable the successful delivery of these programs.

18
19 The programs and investments included in Newfoundland Power's Application will
20 provide a rate mitigating benefit to the Company's customers over the longer term.
21 These programs and investments are consistent with provincial policy objectives and the
22 least-cost delivery of reliable service to customers.

23
24 The regulation of costs and the regulation of EV charging services are separate issues
25 with distinct considerations under provincial legislation. The overarching goal of
26 provincial legislation is to ensure the interests of customers are adequately protected. In
27 Newfoundland Power's view, this can be achieved through Board oversight of
28 electrification program costs and revenues, but does not require the regulation of specific
29 rates, tolls or charges for EV charging services.

30
31 This response provides background information on the public policy context in
32 Newfoundland and Labrador and current regulatory practice, and describes why
33 Newfoundland Power's Application is appropriate and in keeping with sound utility
34 practice.

35
36 **B. Background**

37
38 *i. Public Policy Context*

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40 On September 5, 2018, the Provincial Government issued a Reference to the Board on
41 Muskrat Falls Project rate mitigation.² The Board was directed to consider, among other

¹ Without utility intervention, there are forecast to be approximately 41,000 EVs in Newfoundland and Labrador by 2034. This is forecast to increase to approximately 140,000 EVs by 2034 assuming identified barriers are effectively addressed by the utilities. Transportation electrification accounts for approximately 87% of the additional energy usage forecast over the period 2021 to 2025.

² References to the Board are completed pursuant to Section 5 of the *Electrical Power Control Act, 1994*.

1 issues, whether it is more advantageous for customers to maximize domestic load or to
2 maximize export sales.³ In its final report issued in February 2020, the Board found that:

3
4 *[M]aximizing domestic load through electrification, improving energy efficiency*
5 *and using demand response to reduce peak and allow for increased export sales*
6 *leads to the best outcomes for customers.*⁴
7

8 The Board encouraged Newfoundland Power and Newfoundland and Labrador Hydro
9 (“Hydro” or collectively the “Utilities”) to work with the Provincial Government on the
10 development of the most appropriate electrification and CDM programs for the
11 province.⁵
12

13 Consistent with the Board’s recommendation, the Utilities developed a new plan to guide
14 customer programs over the 2021-2025 period (the “2021 Plan”). The 2021 Plan forms
15 the basis of the electrification programs outlined in Newfoundland Power’s Application.⁶
16

17 The Provincial Government provided a letter of support for the 2021 Plan. The
18 Provincial Government’s letter states:

19
20 *The plan indicates the province's utilities are taking actions to begin addressing*
21 *the electrification, and conservation and demand management (CDM)*
22 *recommendations in the Board of Commissioners of Public Utilities Rate*
23 *Mitigation Options and Impacts Report. The Board's report demonstrated clearly*
24 *that these action areas have excellent potential to assist with our rate mitigation*
25 *efforts.*⁷
26

27 **ii. Current Regulatory Practice**
28

29 EV technology is evolving globally. North American utilities are increasingly offering
30 programs and services to encourage the adoption of EVs among their customers.
31

32 Ratepayer recovery of EV program costs and investments is common utility practice in
33 North America.
34

35 A 2019 utility survey indicated that approximately 60% of utilities funded EV programs
36 either solely from ratepayers or through a combination of ratepayer recovery and
37 government funding.⁸ Legislation in Quebec allows the Régie de l’énergie to consider the

³ Following commissioning of the Muskrat Falls Project, the quantity of electricity generated in the province is forecast to exceed domestic requirements, resulting in a surplus of approximately 3.5 TWh. For the reference questions, see correspondence from Minister Siobhan Coody to the Board, dated September 5, 2018.

⁴ See *Reference to the Board: Rate Mitigation Options and Impacts, Muskrat Falls Project – Final Report*, February 7, 2020, page iii.

⁵ See the Board’s final report on *Rate Mitigation Options and Impacts: Muskrat Falls Project*, February 7, 2020, page 63.

⁶ See Newfoundland Power’s Application, Volume 2, 2021 Plan.

⁷ See Newfoundland Power’s Application, Volume 2, Schedule M, page 1.

⁸ See response to Request for Information PUB-NP-027. This response provides 10 examples of jurisdictions where utilities offer EV incentive programs to customers, including a description of the rate recovery.

1 revenues required by a utility to offer EV charging services.⁹ Most recently, the Island
2 Regulatory and Appeals Commission approved a pilot project for Maritime Electric that
3 includes 2020 capital expenditures related to EV charging stations, which will be
4 recovered from ratepayers.¹⁰

5
6 Regulators have noted the need for a strong business case to permit utility investment in
7 EV programs and infrastructure.

8
9 The New Brunswick Energy and Utilities Board disallowed a project proposed by NB
10 Power to expand its EV charging network, noting that a convincing business case is
11 required.¹¹ The British Columbia Utilities Commission noted that, when considering
12 utility investments in EV infrastructure, careful consideration must be given to whether
13 the investment would likely have been undertaken by the private sector.¹²

14
15 There is currently no prevailing practice in Canada with respect to the regulation of EV
16 charging services. Rather, approaches to regulating EV charging services vary in
17 response to the unique circumstances in each province.¹³

18
19 Certain provinces have determined that the regulation of EV charging services is not
20 required. The Nova Scotia Utility and Review Board found that EV chargers are not a
21 regulated service.¹⁴ The Ontario Energy Board determined that EV charging services are
22 not subject to its jurisdiction.¹⁵ Under Maritime Electric's current pilot project, the rates
23 for EV charging services will be established by the municipalities.¹⁶

24
25 Other provinces permit the regulation of EV charging services. The British Columbia
26 Utilities Commission found that the regulation of EV charging services is required to
27 protect the public interest when the service is provided by a public utility. This
28 determination was made on the basis of mitigating ratepayer risk and ensuring fairness in
29 the EV charging market.¹⁷ Legislation in Quebec allows the government to set rates for
30 EV charging services.¹⁸

31
32 Whether or not the service is regulated, the rates for EV charging services throughout
33 North America are generally based on market rates.¹⁹

34
35 Hydro filed an application with the Board in June 2020 regarding the provision of EV

⁹ See the Act respecting the Régie de l'énergie, section 52.1.2.

¹⁰ See Island Regulatory and Appeals Commission, Docket #UE20732, Order UE20-05.

¹¹ See New Brunswick Energy and Utilities Board, Decision on Matter No. 375, page 27.

¹² See British Columbia Utilities Commission, *An Inquiry into the Regulation of Electric Vehicle Charging Service, Phase Two Report*, June 24, 2019, page i.

¹³ This was observed by the Board, In Order No. P.U. 27 (2020).

¹⁴ See Nova Scotia Utility and Review Board decision 2018 NSUARB 1 M08224, page 13, paragraph 49.

¹⁵ See Ontario Energy Board, Bulletin, July 7, 2016, page 3.

¹⁶ See Island Regulatory and Appeals Commission, Docket #UE20732, Order UE20-05.

¹⁷ See British Columbia Utilities Commission, *An Inquiry into the Regulation of Electric Vehicle Charging Service, Phase Two Report*, June 24, 2019, page i.

¹⁸ See the *Hydro Quebec Act*, section 22.0.2.

¹⁹ See response to Request for Information PUB-NP-026.

1 charging services in Newfoundland and Labrador. Hydro submitted that EV charging
2 services are akin to post-meter activities, do not attract concerns regarding monopolistic
3 utility behaviour, and are not a regulated service as contemplated by provincial
4 legislation.²⁰ Newfoundland Power shares Hydro's views.

5
6 In Order No. P.U. 27 (2020), the Board determined that: (i) the *Public Utilities Act* and
7 *Electrical Power Control Act, 1994* do not require that the Board approve rates, tolls or
8 charges for the provision of EV charging services; and (ii) the regulation of EV charging
9 services in the province was not required at that time to protect the public interest or to be
10 consistent with sound public utility practice. The Board did not, however, make a finding
11 as to whether EV charging services are subject to the legislative authority of the
12 province.²¹

13 14 **C. Newfoundland Power's Application**

15 16 *i. Application Overview*

17
18 Newfoundland Power's 2021 *Electrification, Conservation and Demand Management*
19 *Application* ("Newfoundland Power's Application") includes 3 proposals with respect to
20 customer electrification programs. Newfoundland Power's Application proposes the
21 approval of:

- 22
- 23 (i) A Modified Total Resource Cost test for the economic evaluation of customer
24 electrification programs. The Modified Total Resource Cost test is conceptually
25 similar to tests previously approved by the Board for customer CDM programs.²²
 - 26
27 (ii) An Electrification Cost Deferral Account to provide for the recovery of 2021 costs
28 associated with implementing customer electrification programs, including programs
29 to promote the adoption of EVs. The proposed account will operate in a manner
30 similar to the existing CDM Cost Deferral Account.²³
 - 31
32 (iii) Supplemental capital expenditures for 2021 to commence construction of an Electric
33 Vehicle Charging Network. The construction of an Electric Vehicle Charging
34 Network is necessary to realize the rate mitigating benefits of customer
35 electrification programs.²⁴
- 36

37 If approved, the proposed Electrification Cost Deferral Account and supplemental capital
38 expenditures would be included in Newfoundland Power's regulated rate base and
39 recovered from all customers.

²⁰ See Hydro's *Application Regarding the Provision of Electric Vehicle Charging Services*, Schedule 2, pages 7 to 8.

²¹ See Order No. P.U. 27 (2020), page 5.

²² See Newfoundland Power's Application, Volume 1, Evidence, Section 3.3.2 Economic Justification.

²³ See Newfoundland Power's Application, Volume 1, Exhibit 1.

²⁴ See Newfoundland Power's Application, Volume 1, Exhibit 2.

1 **ii. Recovery of Costs**

2
3 The *Electrical Power Control Act, 1994* requires Newfoundland Power to manage its
4 operations in a manner that results in customers receiving reliable service at the lowest
5 possible cost.²⁵ Costs that are adjudged by the Board to be consistent with least-cost,
6 reliable service are generally recovered from customers through customer rates.

7
8 The electrification programs contained in Newfoundland Power's Application will
9 provide a rate mitigating benefit to customers over the longer term. For example,
10 increased net revenue through electrification is forecast to provide a rate mitigating
11 benefit for customers of 0.5¢/kWh by 2034. This equates to \$100 in reduced electricity
12 charges that year for an average residential customer with electric heating.²⁶

13
14 The rate mitigating benefit of electrification programs is consistent with the least-cost
15 delivery of reliable service. This benefit will be provided to all Newfoundland Power
16 customers. It is therefore reasonable to recover from all customers the costs associated
17 with program delivery, including the related capital expenditures.²⁷

18
19 This approach to cost recovery is consistent with Newfoundland Power's approach to
20 recovering costs for customer CDM programs. Customer CDM programs result in lower
21 system costs that benefit all Newfoundland Power customers. These costs are recovered
22 from all customers through the CDM Cost Deferral Account.

23
24 **iii. Regulatory Oversight**

25 *Regulation of Service*

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27
28 In Newfoundland Power's view, the Board's determination regarding the regulation of
29 EV charging services continues to be appropriate.

30
31 There remains no prevailing practice in Canada with respect to the regulation of EV
32 charging services. Rather, approaches to regulation continue to be dictated by the unique
33 circumstances of each jurisdiction.

34
35 In regulating utility-provided charging services, the British Columbia Utilities
36 Commission noted 2 principal concerns: (i) ensuring fairness in the EV charging market;
37 and (ii) mitigating ratepayer risk.

38
39 In Newfoundland Power's view, the regulation of EV charging services is not required to
40 ensure fairness in the EV charging market in this province.

²⁵ See section 3(b)(iii) of the *Electrical Power Control Act, 1994*.

²⁶ See Newfoundland Power's Application, Volume 1, Exhibit 2, page 3.

²⁷ This is consistent with the principle of fair cost apportionment. The principle of fair cost apportionment establishes that customers in similar situations should be treated equally (horizontal equity), while those in different situations should be treated differently (vertical equity). See Order No. P.U. 7 (2002-2003), page 29.

1 Newfoundland Power's Application provides evidence that access to fast charging
2 infrastructure is a barrier to EV adoption in Newfoundland and Labrador. Access to fast
3 charging infrastructure in Newfoundland and Labrador lags behind that of other Canadian
4 provinces and public sector investment is constrained by a weak business case. Utility
5 investment in fast charging infrastructure is necessary to enable the successful delivery of
6 customer electrification programs.²⁸ In addition to utility investment, the 2021 Plan will
7 also encourage private sector investment in EV charging infrastructure.²⁹

8
9 Furthermore, the rates to be charged by the Utilities for EV charging services reflect
10 market rates. This approach is consistent with sound utility practice and will ensure
11 fairness in the market.³⁰

12
13 In Newfoundland Power's view, the regulation of EV charging services in Newfoundland
14 and Labrador is not required to mitigate ratepayer risk. Rather, ratepayer risk can be
15 effectively mitigated through Board oversight of electrification program costs and
16 benefits, as described below.

17 *Regulation of Cost*

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19
20 In Newfoundland Power's Application, the Board would have oversight of the costs and
21 revenues of customer electrification programs, including all proposed capital
22 expenditures, revenues from EV charging services, and the recovery of costs through the
23 proposed Electrification Cost Deferral Account.

24
25 Board oversight of electrification costs and revenues is consistent with Hydro's view. As
26 part of Hydro's *Application Regarding the Provision of Electric Vehicle Charging*
27 *Services*, it noted:

28
29 *Under Hydro's application, the Board would have oversight over the recovery of*
30 *the costs incurred and the revenues being collected from customers in the*
31 *provision of the service. However, in Hydro's view, a review of such information*
32 *to determine whether costs can be included in revenue requirement does not*
33 *necessarily require the Board to exercise jurisdiction over rates for the charging*
34 *services.*³¹

35
36 This level of oversight is consistent with the Board's approach to regulating customer
37 CDM programs. While the Board does not approve specific programs, such as rebate

²⁸ See Newfoundland Power's Application, Volume 1, Exhibit 2, page 4.

²⁹ The 2021 Plan includes a make-ready investment model to encourage private sector investment in EV charging infrastructure. The make-ready model includes the installation of electrical infrastructure to enable other private sector entities to purchase and install fast chargers. See Newfoundland Power's Application, Volume 2, 2021 Plan, page 15.

³⁰ See response to Request for Information PUB-NP-026.

³¹ See response to Request for Information NP-NLH-002 filed in relation to Hydro's *Application Regarding the Provision of Electric Vehicle Charging Services*.

1 amounts, oversight of program costs and customer benefits is achieved through annual
2 reporting requirements³² and on a triennial basis through general rate applications.

3
4 Newfoundland Power's Application contemplates a similar approach for electrification
5 programs to ensure customers' interests are adequately protected.

6 7 **D. Conclusions**

8
9 With respect to the regulation of EV programs and services, sound utility practice is
10 generally determined based on the circumstances of each jurisdiction. While the
11 circumstances in jurisdictions vary, certain essential considerations have emerged:

- 12
13 (i) That the provision of EV charging services is generally viewed as a service that is
14 different than a traditional core utility service;³³
15 (ii) That a convincing business case is necessary to justify utility investment in EV
16 charging services and programs; and
17 (iii) That, when utility investment is justified, appropriate oversight is required to
18 ensure the interests of ratepayers are protected.

19
20 The circumstances in Newfoundland and Labrador are reasonably unique. Customer
21 electrification programs are being pursued by the Utilities to mitigate customer rates over
22 the longer term. These programs are consistent with the least-cost delivery of reliable
23 service and are within the Board's authority to approve.

24
25 Given the rate mitigating benefit of electrification programs will be provided to all
26 Newfoundland Power customers, it is appropriate that the associated costs be recovered
27 from all customers. The recovery of electrification costs from customers is consistent
28 with sound utility practice, as described above.

29
30 While, in Newfoundland Power's view, the regulation of EV charging services is not
31 necessary at this time, Board oversight of costs and revenues is appropriate to protect the
32 interests of ratepayers. This can be achieved in a manner consistent with the Board's
33 oversight of customer CDM programs.

³² In Order No. P.U. 7 (1996-97), the Board ordered, in effect, that Newfoundland Power file annual progress reports on its demand side management activities, including conservation.

³³ This was observed by the Board in Order No. P.U. 27 (2020), page 5.