



NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES
120 Torbay Road, P.O. Box 21040, St. John's, Newfoundland and Labrador, Canada, A1A 5B2

2021-01-06

Newfoundland Power Inc.

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Dear Madams/Sir:

Re: Newfoundland Power Inc. - 2021 Capital Budget Application - Customer Service System Replacement Project - Consumer Advocate Request for Public Hearing and Requests for Information Filing Schedule

Newfoundland Power filed its 2021 Capital Budget Application on July 9, 2020 which included a proposed multi-year Customer Service System Replacement (CSS) project with total expenditures of \$31.6 million, including \$9.9 million in 2021, \$15.8 million in 2022 and \$5.9 million in 2023-25. After a round of Requests for Information (RFIs) on the Application, which included RFIs on the CSS project, the Board advised on October 9, 2020 that a technical conference would be held for the proposed CSS project and that it would be addressed in a separate order of the Board apart from the rest of the proposed 2021 Capital Budget. Newfoundland and Labrador Hydro (Hydro) and the Consumer Advocate were intervenors in the Application.

The technical conference for the CSS replacement project was subsequently held on November 10, 2020. RFIs on the project were filed on November 20, 2020 and responses were filed on December 1, 2020. On December 8, 2020, the Board requested the parties to advise whether they requested a public hearing on the project. On December 11, 2020 Hydro advised it did not request a public hearing. On December 14, 2020 the Consumer Advocate requested a public hearing and set out the basis for this request. Newfoundland Power responded to the request for a public hearing on December 16, 2020.

The Consumer Advocate stated that, while Newfoundland Power bases the merits of the CSS project on work completed by Ernst & Young LLP (EY), an expert, it did not make EY available to respond to questions at the technical conference or to respond to RFIs. In the Consumer Advocate's opinion, a public hearing would allow the parties to hear directly from the experts at EY, to cross-examine them and would give the opportunity to determine the requirements for a declaration on the independence of a consultant. The Consumer Advocate listed a number of questions on the CSS project that he would like to put to EY at a public hearing, including some on issues that have been raised as proposed revisions to the Capital Budget Guidelines (Guidelines) in the ongoing Guidelines review.

The Consumer Advocate also submitted that the Board could, rather than hold a public hearing at this time, direct Newfoundland Power to re-submit the CSS project under the Guidelines that may "be devised by the Board following the recommendations of the Board's consultant Midgard" as that "would potentially provide closer scrutiny of the CSS proposal and would come at a time when the effects of Covid-19 will have hopefully passed and the province's rate mitigation strategy will be known."

The Consumer Advocate described the project as "once-in-a generation" project and submitted that the project, at an estimated cost of \$31.6 million, deserves utmost scrutiny and merits greater scrutiny than other asset replacement projects, particularly during this time of poor economic conditions in the Province.

Newfoundland Power, in its response, stated that the record in this proceeding is comprehensive with the Application containing detailed information on the project and with responses filed on September 9, 2020 to 44 RFIs on the project in the first round of RFIs and 38 responses to RFIs filed on December 1, 2020 in the second round. In Newfoundland Power's view each of the issues raised by the Consumer Advocate concerning the project are reasonably addressed on the record of the proceeding and a public hearing would not provide any practical benefit in determining the merits of the CSS project.

Newfoundland Power also stated that there is no basis to imply that the existing Guidelines are deficient or inadequate with respect to the consideration of the proposed CSS project. In their view the existing Guidelines have provided for effective and efficient oversight of the utilities' capital programs, including oversight of significant capital expenditures and referred to the Board's approval in 2014 of the \$297 million capital project proposed by Hydro to construct a new transmission line, TL 267, between Bay d'Espoir and the Avalon Peninsula which was approved under the existing Guidelines. Newfoundland Power submitted that the ongoing review of the Guidelines should not factor into the Board's consideration of the proposed CSS project.

Newfoundland Power also noted that additional reporting requirements, as have been implemented for certain approved capital projects in the past, are a reasonable means to address some of the issues raised by the Consumer Advocate.

The Board continues to be of the opinion as stated in its February 27, 2020 correspondence in the Guidelines review that the existing Guidelines allow for effective and efficient oversight of capital spending by the utilities in the Province. These Guidelines set out a framework which provides clarity as to the requirements for utilities and a full opportunity for intervenors to question the rationale, details and cost implications of a capital budget proposal. The capital budget process requires that a utility file an application with detailed supporting information and reports, and

provides for the filing of requests for information, responses to information requests, motions on specific issues and submissions. While the process is generally completed through the exchange of written documentation, a technical conference and a public hearing may also be held when appropriate. This process is cost effective as well as fair, impartial, thorough and efficient.

While the Board agrees with the Consumer Advocate that the CSS project deserves careful scrutiny, the Board is satisfied that the written review process allows a full opportunity to gather information and challenge Newfoundland Power's proposals in relation to this project. The Consumer Advocate submitted that it is necessary to hear directly from EY and set out a number of specific issues to be addressed. The Board believes that it is important that the parties have a full opportunity to question the expert whose reports were filed in support of the application but it is not necessary that a hearing be held to gather this information. This information can be obtained through the filing of RFIs or where appropriate through the technical conference process. EY did not participate in the technical conference which, combined with follow-up RFIs, would have provided the opportunity for the full exchange of information in relation to the expert reports filed in support of the Application and documentation of this information on the record. To provide the opportunity for full information exchange, the Board will allow the filing of further RFIs.

The Board does not accept the Consumer Advocate's suggestion that additional requirements yet to be considered in the ongoing review of the Board's Guidelines should be implemented or that, alternatively, the CSS project should be re-submitted following any revisions to the Guidelines on completion of the review. As stated by the Board in Order No. P.U. 37(2020) the "*review of the Guidelines is ongoing in a separate regulatory process and until the conclusion of this review, the existing Guidelines remain in effect.*"

To ensure that this matter proceeds expeditiously RFIs should be filed by Friday, January 15, 2021 with responses filed by Tuesday, January 26, 2021.

If you have any questions, please do not hesitate to contact the Board's Hearing Counsel, Maureen Greene, Q.C., by email, mgreene@pub.nl.ca or telephone (709) 726-3175.

Sincerely,



Cheryl Blundon
Board Secretary

CB/cj

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