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March 1, 2021

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 Inc. – 2021 Electrification, Conservation and Demand Application

On December 16, 2020 Newfoundland Power ("NP") submitted to the Public Utilities Board (the "Board") its 2021 Electrification, Conservation and Demand Management Application ("Application"). On January 19, 2021 the Board issued a review schedule for the Application which includes comments on the Application from the Parties. Requests for Information ("RFIs") were submitted by the Parties on January 27, 2021 and Newfoundland Power provided responses on February 9, 2021. The Board has since set the date for comments by the parties as March 1, 2021. This submission documents the Consumer Advocate's comments on the Application.
The Consumer Advocate supports conservation and demand management initiatives in the Province. We likewise support electrification efforts in the Province provided the programs are implemented in a manner that optimizes value to the Province's electricity consumers while minimizing risks. At the same time, we have concerns about the high levels of capital spending by the two electric utilities in the Province, Newfoundland and Labrador Hydro ("Hydro") and Newfoundland Power ("NP"), during this very difficult economic time in the province. It is with this in mind that we submit our comments on the Application.

This capital expenditure should have been brought forward as part of the annual capital budget and not by way of a supplementary budget. This issue has been well known for some time and should have been anticipated. According to the Board's procedures, it should be deferred as an expenditure item in the next capital budget.

1. CONSUMER ADVOCATE COMMENTS ON THE APPLICATION

The cover letter to the Application (page 2 of 3) states "*The Application proposes that the Board approve approximately $1.5 million in supplemental capital expenditures for 2021 to commence construction of an Electric Vehicle Charging Network.*" Because this is a "*supplemental capital expenditure*" it is subject to the same rules and guidelines as any other proposed capital budget project, and the burden of proof is on the Utility to provide sufficient data, information and analyses to justify the expenditure. As stated by Newfoundland Power in its response to CA-NP-128 (Newfoundland Power's 2021 Capital Budget Application) "*It is Newfoundland Power's position that the onus is on the utility to fully support with evidence the expenditures proposed in its capital budgets*." It is the Consumer Advocates conclusion and position that the evidence filed in the Application falls short of this requirement.

For the sake of clarity, the Consumer Advocate is not opposed at this time to any part of the Application relating to the conservation and demand management (CDM) program. The Application states (point 7, page 2) "*The 2021 Plan continues longstanding, cost-effective customer CDM programs. These programs will be delivered in a manner consistent with past orders of the Board, as outlined in Paragraph 3 of the Application*." In other words, no changes are proposed to the CDM program in this Application. As a result, our comments in this submission relate only to the proposed electrification program, specifically the proposed $1.5 million in supplemental capital expenditures in 2021 for charging stations and the proposed Electrification Cost Deferral Account for recovery of 2021 costs associated with implementation of customer electrification programs.

1) It is stated in the cover letter to the Application (page 2 of 3) "*Approval of these proposals will enable the delivery of customer electrification programs in 2021. This, in turn, will enable the earliest feasible realization of the associated rate mitigating benefits for customers*." CA-NP-026 (Attachment A, Table 1) shows the rates assumed by Newfoundland Power in its analysis. Residential rates start at about 12.5 cents/kWh in 2021 and increase by 2.25% annually until 2034 when they reach about 16.7 cents/kWh. PUB-NP-022 states "*The assumption used in the net present value analysis is based on the Provincial Government's rate mitigation framework and assumes an annual 2.25% rate increase*." The basis for the rate assumption is referenced in Footnote 1, the Provincial Government's April 2019 release *Protecting You From the Cost Impacts of Muskrat Falls (page 8)*.

CA-NP-026 (Attachment C, Table 1) shows the rate mitigation impact of the proposed electrification program. It shows that residential rates will increase through 2025, and then decrease through the end of the study period in 2034 when the forecast rate mitigation impact will reach an estimated 0.36 cents/kWh. The rate mitigating impact of the proposed electrification program is forecast to result in a decrease in residential rates by 2034 of about 2.2% over the assumed level of 16.7 cents/kWh.

If rates are fixed by Government as part of rate mitigation for the Muskrat Falls project as assumed in Newfoundland Power's analysis, the proposed electrification program will not reduce residential rates by 0.34 cents/kWh (2.2%) by 2034, but rather will reduce the amount of money the Government will absorb owing to the Muskrat Falls project. In other words, rates will not be reduced, but rather the funds conveyed by Government to cover the revenue loss owing to Muskrat Falls will be reduced. As stated in the Provincial Government's April 2019 release *Protecting You From the Cost Impacts of Muskrat Falls (page 8) "Our government made a commitment: that*

Newfoundlanders and Labradorians will not bear the cost of Muskrat Falls. To deliver on that commitment, we are taking action so that the rates paid for electric energy in Newfoundland and Labrador will remain the same as they would if the project had never happened, and we will not raise taxes to achieve that goal."

Therefore, it is the Provincial Government rather than ratepayers that will benefit from the rate mitigating impacts of the proposed electrification program. According to CA-NP-006 the Provincial Government is providing encouragement to the utilities, but does not appear to be participating itself in the Province's electrification program.

2) It is not clear to the Consumer Advocate that utility funding of charging stations and passing this cost on to ratepayers is legal under current legislation. Neither are we clear that ownership of charging stations by a privately-owned utility such as Newfoundland Power with protections in a fully-regulated monopoly market does not violate the Province's monopoly/anti-competition laws. Why not use Government, or a government-owned entity such as Hydro, as a vehicle for conveying incentives to improve the business case for private sector entities to construct, own and operate charging stations? What value does Newfoundland Power bring to the proposed program?

In the Consumer Advocate's opinion, Newfoundland Power's proposal to build and own charging stations is not fair to potential private sector developers of charging stations. In PUB-NP-002, NP states "*The British Columbia Utilities Commission noted that, when considering utility investments in EV infrastructure, careful consideration must be given to whether the investment would likely have been undertaken by the private sector*." Further in the same response it is stated "*In regulating utility-provided charging services, the British Columbia Utilities Commission noted 2 principal concerns: (i) ensuring fairness in the EV charging market; and (ii) mitigating ratepayer risk*." NP's proposed program would effectively present a barrier to private sector entry to the charging station business. Newfoundland Power is of the opinion that the private sector would not undertake such investments because it is "*constrained by a weak business case*" (PUB-NP-002, page 6 of 7).

This may well be true, but NP makes no effort to determine what it might take to overcome this hurdle other than building the charging stations itself. For example, NP does not assess if a low-cost loan or rebate toward the capital cost of a charging station might be enough to overcome the business case issue and encourage the private sector to undertake such an investment. Instead, Newfoundland Power files an Application to cover the entire capital cost of the charging stations itself placing the entire risk burden on the backs of its customers through its protections under the regulatory regime.

In CA-NP-035 (b) NP states "*The Utilities Electrification, Conservation and Demand Management Plan: 2021-2025 (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*." What hope is there for the success of this program when the two utilities in the Province are building charging stations themselves to the tune of 33 charging stations by year-end 2021 with more to follow? How many charging stations are needed in the Province and at what point will there be so many charging stations that there will no longer be a sound business case for private sector development with or without incentives? The aggressiveness of the utility programs will act as a barrier to private sector entry to the changing station market. This is unfair both to the private sector and ratepayers, and amounts to an attempt by Newfoundland Power to increase its rate base and profits to its shareholder while placing all of the risk of the investment on its customers.

3) Newfoundland Power has not identified or quantified the risks of the proposed electrification program. In CA-NP-019 (c) NP was asked if a risk assessment was undertaken with respect to its proposed expenditures on the charging stations, and if the fact that 86% of electric vehicle owners primarily charge their vehicles at home (Application Volume 2, Schedule D, page 3 of 5) was taken into consideration in the risk assessment. NP responded, "*A risk assessment was not undertaken with respect to customer electrification programs.*" It appears that because it is not their money that is at risk, Newfoundland Power was not concerned that the project might become stranded or otherwise become a losing proposition leading to a loss of capital. It is easy to do so when it is someone else's money at risk, in this case, the ratepayers. A private sector developer has no such guarantees, and would be required to undertake a risk assessment before anyone would lend him/her the money to pursue the project.

Neither has Newfoundland Power proposed any risk mitigation measures, suggesting that because the proposed program will be regulated by the Board (although not the proposed charging rates), customer risk will be minimized. If the utilities desire to own and operate charging stations, they should be willing to take on the risk rather than placing 100% of the risk on ratepayers. Newfoundland Power, in particular, has a vested interest in electrification in light of falling sales owing to, among other things, the high rate of conversions from electric resistance heating to heat pumps. CA-NP-030 (a) states "*The 2020–2034 Potential Study (the "Study") forecasts that, by 2034, 68,900 residential customers with electric baseboard heating will install a mini-split heat pump. By 2034, the Study estimates this penetration could result in annual energy savings of nearly 140 GWh and peak demand reduction of 80 MW.*" This compares to a forecast peak demand reduction of 82 MW over the duration of the 2021 CDM plan (see Application Volume 2, page 1). The response goes on to say, "*incentives are not required to encourage customers to adopt heat pumps*".

It seems that these particular charging network enterprises should not be funded at all by ratepayers, but rather by the utility's shareholder, through a separate corporate entity established for that purpose. The benefits to ratepayers seems vague. Ratepayers should not be required to expend any funds in these endeavours until that is clarified and until the ways and means of indemnifying ratepayers for the use of ratepayer built structures has been addressed.

Given this scenario, it would seem that Newfoundland Power would be willing to take on part of the risk of its proposed electrification program. However, in PUB-NP-005 the Board asks "*Would* *a Board order declining to allow the EV Assets, the Electrification Cost Deferral Account, or recovery of a portion of the program costs (eg. rebates/incentives) in rate base affect Newfoundland Power's approach and proposals to EV electrification?"* Newfoundland Power responds "*Should the Board find that the Application's proposals are not consistent with sound utility practice or least-cost service delivery, Newfoundland Power would be required to reconsider its planned approach to delivering customer electrification programs*." This does not directly answer the Board's question. It does not appear that Newfoundland Power's shareholder will be agreeable to taking on any portion of the risks associated with the program even if there are inconsistencies between its program and that proposed by Hydro. Any benefit to ratepayers has yet to be determined.

4) In PUB-NP-027 Newfoundland Power states (Footnote 1) "*As part of the 2019 E Source Utility DER and Electrification Benchmark research, 28 utilities were asked to identify the source of funding for their electric vehicle activities. Nine respondents funded activities solely through ratepayer recovery. Eight utilities funded electric vehicle initiatives through a combination of ratepayer recovery and government funding*." Put another way, 19 utilities, or 68% of those surveyed did not fund electric vehicle activities solely through ratepayers. It will be a long time before the benefits of the proposed electrification program materialize, until 2026 or beyond. PUB-NP-030 states "*Price parity between electric vehicles and internal combustion engine vehicles is expected by 2025*." Therefore, electric vehicles are expected to reach price parity with internal combustion vehicles in 4 years before customers see any rate mitigation benefits from the proposed electrification program. It would appear that Newfoundland Power is late to the table, and begs the question, why is an incentive for electric vehicles needed at all beyond that provided by the federal Government? There may be a potential free ridership issue with the provision of EV incentives similar to the argument NP poses against providing incentives for heat pump conversions (CA-NP-030).

5) In CA-NP-014 (b) NP was asked if the $15/hour charge for using charging stations will recover the full cost of supply. NP responded "*No, this rate will not cover the entire cost of supply including generation, transmission and distribution costs*." The response goes on to say that the rate was chosen "*based on a comparison of rates charged elsewhere in Atlantic Canada*". PUB-NP-026 indicates that 9 out of the 10 utilities in the sample use market-based rates for use of charging stations as proposed by Newfoundland Power (and Hydro). It is not clear if the Board has ever approved rates in the Province other than cost-based rates. Neither is it clear if the Board has the authority under current law to approve rates for a service provided by the utilities that is not cost-based.

6) There is no evidence on the record that the proposed electrification program has been discussed with customers. As a result, there is no evidence that customers value the benefits and risk reduction brought on by the project relative to its estimated cost. Further, the Application does not identify or quantify risks, or the critical risk factors, of the proposed electrification program.

7) The Consumer Advocate points out that during the focus groups relating to Newfoundland Power's proposed CSS replacement project (see 2021 Capital Budget Application, Volume 1, Appendix 1, Customer Service Qualitative Research, page 21), customers indicated they want more information on real-time electricity usage to "*highlight opportunities to reduce energy and cut costs*". However, there will be little incentive, and little opportunity, for customers to reduce electricity costs under the single flat (non-time varying) rate offered by Newfoundland Power. This feedback provides a good argument for time-of-use rates - customers want it. Regardless, in its response to CA-NP-032, NP references the Dunsky report, stating "*the introduction of new measures, including TOU rates, were assessed to provide little additional benefit in reducing system peak and associated system costs.*" NP goes on to say, "*The issues of customer choice, fairness and equity are inherent considerations in customer rate design, but were not specifically considered in determining whether TOU rates would provide an economic benefit to customers.*" In CA-NP-011 Newfoundland Power states that it "*does not currently have any plan to implement time-of-use rates. Based on the results of the Study, time-of-use rates, which require interval metering, are currently forecast to be cost-effective for customers in the 2030 to 2034 timeframe.*" Sadly, Newfoundland Power uses its customers' desire to reduce electricity costs as part of its justification for the CSS replacement project, a project it clearly wants to pursue, but ignores time-of-use rates which can help customers achieve their goal of reduced electricity costs while addressing customer choice, fairness and equity issues in the rates regime. Newfoundland Power has stated that it has no plans to introduce time-of-use rates "*until at least 2030*" (see Application, page 11).

8) In CA-NP-006 Newfoundland Power states "*The Electrification, Conservation and Demand Management Plan: 2021-2025 (the "2021 Plan") represents the comprehensive and coordinated approach developed by the utilities for delivering the most appropriate programs for the Province.*" Yet PUB-NP-003 and PUB-NP-001 suggest there are significant differences between Hydro and Newfoundland Power electrification programs and cost recovery. It is not clear why there are differences when Newfoundland Power claims there was a "*comprehensive and coordinated approach developed by the utilities.*" Perhaps the utilities should have submitted a combined Application on electrification.

9) CA-NP-020 (g) asked if there would be savings associated with having a single entity responsible for charging station infrastructure development during the initial stages. It is not clear to the Consumer Advocate why both Newfoundland Power and Hydro are developing charging stations rather than only one or the other to reduce duplication of costs. NP responded, "*Coordination in the installation of charging infrastructure will optimize public access to EV chargers and avoid the development of redundant infrastructure by the utilities.*" This does not answer the question. There is no evidence on the record to suggest that having both utilities participate in this program will provide benefits to consumers. Whether or not the program is "*coordinated*", there is likely to be duplication of costs to administer the program. It is also likely to increase the cost of regulation. There is no evidence on the record to suggest that Newfoundland Power brings value to the electrification program over Hydro or the private sector.

10) The proposed capital budget expenditure in Newfoundland Power's Application would be more fully informed and understood by the parties and the Board if viewed within the context of NP's upcoming GRA to be filed by in about 3 months (June 1, 2021 – see Application Footnote 52) or its upcoming 2022 Capital Budget Application to be filed in about 4 months. This would enable the parties and the Board to review the proposed capital expenditure within the context of all proposed capital expenditures, and the impact on customer demands and rates. Newfoundland Power was asked about this in CA-NP-030 and responded, "*No. In Newfoundland Power's view, the existing process for the Application as established by the Board is consistent with the Guidelines and provides an opportunity to fully consider the proposed capital expenditures and related proposals*." The Consumer Advocate disagrees. We note that Capital Budget Application Guidelines are under review and the Board's consultant has recommended substantial changes to the Guidelines to, among other things, eliminate the asymmetry of information between the utilities and the parties.

In the Consumer Advocate's view, the Application does ***not*** provide a fair opportunity for the parties "*to fully consider the proposed capital expenditures and related proposals*". We do not know within the broader perspective how this Application fits with other capital projects that will be proposed by Newfoundland Power, and do not know how it will impact customer load and rates within the context of other Newfoundland Power proposals that will come to light in the GRA and/or the 2022 CBA. We are being asked to consider this Application in an information void that may suit Newfoundland Power's purposes, but is far from suitable to the Consumer Advocate. We do not have a complete picture of the proposed undertaking, the primary reason we have General Rate Applications and Capital Budget Applications.

In its response to CA-NP-037 (b) NP goes on to say, "*delaying construction of the EV charging network would delay delivery of the associated rate mitigating benefits for customers*". In CA-NP-033 NP states that if the electrification program started in 2022 instead of 2021 as proposed "*net revenues in 2034 are estimated to be $28 million, or $7 million lower than the $35 million in 2034 net revenues outlined in the Electrification, Conservation and Demand Management Plan: 2021-2025 (the "2021 Plan"). These lower net revenues would reduce the forecast rate mitigation benefit of 0.5¢/kWh in 2034, outlined in the 2021 Plan, to 0.4¢/kWh in 2034*." This is a relatively small impact when one considers the degree of accuracy of a study looking out 13 years into the future. The Consumer Advocate suspects that the full benefits would be restored if the study period were extended by a year to 2035.

In our opinion it is better to get electrification right rather than rush into something that could set a bad precedent for future applications in the Province, particularly for a project that may not provide any benefit to ratepayers under the Government's rate mitigation promise. As stated by Newfoundland Power (PUB-NP-002) "*The circumstances in Newfoundland and Labrador are reasonably unique*." The Consumer Advocate agrees, and believes that the parties and the Board will only be in a position to determine what is right for Newfoundland and Labrador if the Application is reviewed from a complete perspective such as that offered in a GRA.

2. SUMMARY OF CONSUMER ADVOCATE'S POSITION

Newfoundland Power states (PUB-NP-002) "*Regulators have noted the need for a strong business case to permit utility investment in EV programs and infrastructure*." In PUB-NP-002, NP states "*The British Columbia Utilities Commission noted that, when considering utility investments in EV infrastructure, careful consideration must be given to whether the investment would likely have been undertaken by the private sector*." Further in the same response it is stated "*In regulating utility-provided charging services, the British Columbia Utilities Commission noted 2 principal concerns: (i) ensuring fairness in the EV charging market; and (ii) mitigating ratepayer risk*." The Consumer Advocate is in full agreement with these statements and submits that the Application falls far short of these requirements. There is not a strong business case for the proposed electrification program. Further, the Consumer Advocate believes the private sector would undertake development of charging stations if provided the right incentives, such as low-cost loans or rebates to reduce the capital investment requirement. This would have the added benefit of placing less ratepayer capital at risk.

Newfoundland Power has not met the burden of proof requirement for its proposed electrification program:

1) There is no evidence on the record that the proposed electrification program and its costs were discussed with customers. As a result, there is no evidence that customers value the benefits and risk reduction brought on by the project relative to its estimated cost.

2) It is not clear that customers will benefit from the proposed electrification program given that the Provincial Government intends to fix rates under its Muskrat Falls rate mitigation program.

3) The Application neither identifies nor quantifies risks of the proposed electrification program, and does not evaluate alternatives that might place less of the ratepayer's capital at risk.

4) Critical success factors of the proposed program have not been identified.

5) It is not clear that the proposed electrification program is legal under existing legislation.

6) The proposed program represents a barrier to private sector participation in the charging station market.

The Consumer Advocate believes the proposed electrification program could have adverse impacts on customers. Customers simply cannot afford additional capital spending during this very difficult time with the Provincial economy. The Consumer Advocate recommends that the Board reject the proposed electrification program on the basis that the evidence on the record does not meet the burden of proof requirement and the project has not been shown to be needed to provide least cost reliable service to customers. If Newfoundland Power is a firm believer in the merits of the proposed program it can re-submit the program at its next GRA scheduled for June 1, 2021.

It seems there are issues here which may arise pursuant to relevant sections of the federal Competition Act. It may be in the public interest if the Board obtained an opinion to ensure compliance with federal competition legislation in reference to what the two utilities propose here.

Please contact the undersigned if you have any questions on this submission.

Yours truly,

Dennis Browne, Q.C.
Consumer Advocate

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