

1 **Q. (Reference CA-NP-004) It is stated “*The Company views both capital budget***
 2 ***caps and capital budget envelopes as arbitrary limits on capital expenditures***
 3 ***and notes that neither are best practice in jurisdictions with cost of service***
 4 ***regulation such as Newfoundland and Labrador.”***

5 **a) Did Midgard recommend that the Board approve “arbitrary” capital**
 6 **budget envelopes? What exactly did Midgard recommend with respect**
 7 **to capital budget envelopes? Please provide references from the**
 8 **Midgard report.**

9 **b) Did Midgard recommend that the Board have the flexibility to approve**
 10 ***either* capital budget envelopes *or* individual projects? Is Newfoundland**
 11 **Power opposed to the Board having greater flexibility in its decision-**
 12 **making?**

13 **c) Does Newfoundland Power believe that the Board has the expertise to**
 14 **manage Newfoundland Power’s assets. Does Newfoundland Power want**
 15 **the Board to manage its assets?**

16 **d) Was Midgard aware that the province is a cost of service jurisdiction?**
 17 **Please provide references in the Midgard report indicating that Midgard**
 18 **did not know that NL is a cost of service jurisdiction.**

19 **e) Did Midgard recommend performance-based regulation in the province?**

20 **f) Does Newfoundland Power believe that capital budget envelopes are**
 21 **best practice in jurisdictions with performance-based regulation?**

22
 23 **A. a)** In the report titled *Newfoundland and Labrador Board of Commissioners of*
 24 *Public Utilities Capital Budget Application Guideline Review* (revised), dated
 25 October 29, 2020 (the “Midgard Report”), Midgard Consulting Incorporated
 26 (“Midgard”) recommended:

27
 28 *“... that the Board affirms its right to explicitly approve, modify or*
 29 *disallow individual budget line items, and in the absence of explicit*
 30 *decisions regarding specific line items, require that the utility*
 31 *manage the list of budgeted projects within an approved budget*
 32 *envelope...”¹*

33
 34 The Board did not adopt the recommendation for a budget envelope, which it
 35 characterized as among the longer-term issues that may require further work or
 36 legislative changes.²

37
 38 The Board has previously rejected proposals to implement a budget envelope for
 39 Newfoundland Power. For example, in its Reasons for Decision in issuing Order
 40 No. P.U. 36 (2021), the Board noted that:

41
 42 *“... a budget envelope would be new for this province and it is not clear*
 43 *that it would be consistent with the legislative framework which requires*
 44 *approval of both the annual capital budget and the individual proposed*
 45 *project expenditures. While budget envelopes are in use in some other*

¹ See the Midgard Report, page 62.

² See correspondence from the Board regarding *Provisional Capital Budget Application Guidelines*, December 20, 2021.

1 *Canadian jurisdictions they are not, as far as the Board is aware, used for*
 2 *utilities in Atlantic Canada, or for Canadian utilities subject to cost-of-*
 3 *service regulation.”³*
 4

5 b) See part a). Newfoundland Power defers to the Board regarding the level of
 6 flexibility it requires to meet its regulatory obligations.
 7

8 c) As a public utility, Newfoundland Power is responsible for managing its assets.
 9 The Company manages its assets utilizing a comprehensive capital planning
 10 process that determines which capital expenditures are required annually to
 11 meet its obligations under the *Public Utilities Act* and the *Electrical Power Control*
 12 *Act, 1994*.
 13

14 The Board has responsibility for the general supervision of public utilities in the
 15 province.⁴ The Board is a panel of experts with the specific expertise required to
 16 carry out its mandate, which includes determining whether public utility capital
 17 expenditures are fully justified.⁵
 18

19 d) Yes, Midgard was aware that Newfoundland and Labrador is a cost of service
 20 jurisdiction.⁶
 21

22 e) No, Midgard did not recommend performance-based regulation (“PBR”). The
 23 Midgard Report stated:
 24

25 *“Midgard acknowledges there is an active conversation about the*
 26 *role that PBR could potentially play in Newfoundland and*
 27 *Labrador, but at this time Midgard is not recommending a shift to*
 28 *PBR regulation because it is not necessarily the best solution for*
 29 *regulating both utilities.”⁷*
 30

31 f) Newfoundland Power observes that each jurisdiction with PBR implements a
 32 unique set of mechanisms designed to fit the jurisdiction and its objectives. As
 33 such, methods for determining appropriate levels of capital expenditures vary
 34 among jurisdictions. The Company is not in a position to comment on what may
 35 constitute best practice in other jurisdictions with PBR.

³ See the Board’s Reasons for Decision in issuing Order No. P.U. 36 (2021).

⁴ See the *Public Utilities Act*, section 16.

⁵ Section 6(3) of the *Public Utilities Act* reflects the need for the Board to be comprised of Commissioners with expertise in law, engineering, accountancy or finance. As a result, the Board has the expertise necessary to determine if a utility’s proposed capital expenditures are fully justified pursuant to the provincial power policy and applicable legislation.

⁶ See the Midgard Report, page 23.

⁷ See the Midgard Report, page 110.