

P.U. 27 (2002-2003)

IN THE MATTER OF the *Public Utilities Act*
R.S.N. 1990, Chapter P-47 (the "*Act*");

AND IN THE MATTER OF a General Rate
Application (the "Application") by Newfoundland
Power Inc. filed pursuant to Order No. P. U. 22
(2002-2003)

BEFORE:

Robert Noseworthy
Chair and Chief Executive Officer

Darlene Whalen, P.Eng.
Vice-Chairperson

John William Finn, Q.C.
Commissioner

PROCEDURAL ORDER

Newfoundland Power Inc. (“NP”), pursuant to Order No. P.U. 22 (2002-2003), filed an application with the Board of Commissioners of Public Utilities (“the Board”) on October 11, 2002 for an Order or Orders of the Board approving, among other things, the proposed rates for the various customers of NP, to be effective May 1, 2003.

Notice of the Application and Pre-hearing Conference was published in newspapers throughout Newfoundland and Labrador beginning on October 19, 2002.

On October 30, 2002 a Pre-hearing Conference was held in the Board’s Hearing Room, 2nd Floor, Prince Charles Building, 120 Torbay Road, St. John’s.

The primary objectives of the Pre-hearing Conference, as set out in the Notice, were as follows:

1. Identify Intervenors and other interested parties.
2. Establish an order of witnesses.
3. Establish an order of cross-examination of witnesses.
4. Establish a protocol and procedure for filing evidence, information requests, and other submissions to the Board.
5. Identify distribution lists for the service of documents.
6. Provide focus to the issues.
7. Determine other such matters relevant to the hearing.

Having heard from the parties and giving regard to their agreement with respect to the proposed schedule, order of witnesses, and procedures for the hearing of the Application, the Board makes the following order pursuant to the provisions of the *Act* and regulations there under.

THE BOARD ORDERS THAT:

1. The registered Intervenors, the schedule of dates, the order of witnesses, and the procedures for the hearing of the Application are as set out in Appendix “A” to this Order.

DATED at St. John's, Newfoundland and Labrador this 5th day of November 2002.

Robert Noseworthy,
Chair & Chief Executive Officer.

Darlene Whalen, P.Eng.,
Vice-Chairperson.

John William Finn, Q.C.
Commissioner.

G. Cheryl Blundon,
Director of Corporate Services and
Board Secretary.

Appendix “A”

- Item 1. Registered Intervenors**
- Item 2. Schedule of Dates**
- Item 3. Order of Witnesses**
- Item 4. Rules of Procedure**
- Item 5. Distribution Listings**

Appendix “A”-Item 1.

Registered Intervenors

The following is a list of parties who are identified as registered Intervenors to this hearing:

1. **Consumer Advocate**
represented by
Dennis Browne, Q.C. and Stephen Fitzgerald
Browne Fitzgerald Morgan & Avis Legal Counsel
P. O. Box 23135
Terrace on the Square, Level II
St. John’s, NL
A1B 4J9
Telephone: 724-3800
Fax: 754-3800

- .2. **Newfoundland and Labrador Hydro**
represented by
Maureen P. Greene, Q.C. and Geoffrey Young
Vice-President Human Resources, Legal Counsel
General Counsel & Corporate Secretary
Hydro Place, Columbus Drive
P.O. Box 12400
St. John’s, NL
A1B 4K7
Telephone: 737-1465
Fax: 737-1782

Appendix “A”-Item 2.**Schedule of Dates**

The following dates are set:

November 2002

Nov. 27 Counsel Conference
Nov. 28 Motions Day

December 2002

Dec. 6 Requests for Information (“RFI’s”) submitted to NP
Dec. 6 NP files Issues list
Dec. 18 Counsel Conference
Dec. 19 Motions Day
Dec. 23 Responses to RFI’s filed by NP

January 2003

Jan. 7 Intervenor’s file Issues list
Jan. 10 Expert Reports and Pre-filed testimony filed by Intervenor and Board
Jan 10 Witness lists filed
Jan. 15 Counsel Conference - Issues
Jan. 17 RFI’s on Intervenor & Board Expert Reports and Pre-filed testimony
Jan. 24 Intervenor & Board responses to RFI’s
Jan. 28 & 29 Negotiation Days/Technical Conference
Jan. 31 Last filing date before hearing commencement, all answers to outstanding questions to be filed

February 2003

Feb. 5 Hearing to commence

Appendix “A”-Item 3.

Order of Witnesses

The following order of witnesses is established:

NP - Presentation of Application

NP - President & Chief Executive Officer	-	Philip Hughes
NP - Vice-President	-	Earl Ludlow
NP - Vice-President	-	Barry Perry

Cost of Service Witnesses

NP - Cost of Service Witness	-	Lorne Henderson
NP - Cost of Service Witness	-	Larry Brockman
CA - Cost of Service Witness	-	Doug Bowman

Other expert witnesses

NP - Regulatory Expert	-	John T. Browne
NP - Depreciation Expert	-	John F. Wiedmayer

Cost of Capital Witnesses

NP - Cost of Capital Expert Witness	-	Kathleen McShane
NP - Cost of Capital Expert Witness	-	Roger Morin
CA - Cost of Capital Expert Witness	-	Basil Kalymon

Other witnesses

NP - Forecasting	-	Ron Crane
BOARD - Financial Consultant	-	Bill Brushett

Appendix “A”-Item 4

Rules of Procedure

Public Record

1. Unless otherwise ordered by the Board, all documents filed with respect to this proceeding shall be placed on the public record.

Form of Documents

2.
 - (1) Unless otherwise ordered by the Board, the official record of this proceeding will be the original paper copy filed with the Board’s Secretary
 - (2) Every written document filed by a party shall be prepared as follows:
 - (a) Typed, written or printed on 8½” X 11” letter size paper, 3-hole punched for standard binders.
 - (b) Each page shall be numbered.
 - (c) Where reasonable, each line shall be numbered.

Filing of Documents

3.
 - (1) All documents shall be filed with the Board Secretary.
 - (2) Documents may be filed by:
 - (a) Hand delivery;
 - (b) Courier service;
 - (c) Registered Mail;
 - (d) Facsimile; or
 - (e) Other means directed by the Board.
 - (3) Filing is accomplished when the Board receives the submission.
 - (4) All documents shall be date and time stamped when received at the Board’s Office.
 - (5) All documents filed according to the scheduled dates shall be filed no later than 3:00 P.M. on the date stipulated. Documents filed after this time or on a Board holiday shall be considered as filed on the next Board business day.

Revisions to Documents

4. (1) A party may revise any document where new information or information to correct errors on submitted filings becomes available before the completion of the hearing.
- (2) Where all or any part of a document is revised, each revision shall indicate the page(s) revised, the line(s) revised, the number of the revision (i.e. 1st revision), and the date of the revision.
- (3) Where a revision is made to a document the Board may, upon its own motion or upon the request of another party, after receiving submissions of the parties, make any order in respect of the revisions.

Service of Documents

5. (1) All documents shall be served upon the other parties in this proceeding.
- (2) Parties will appoint one person to receive documents for this proceeding.
- (3) Service may be made as follows:
 - (a) Hand delivery;
 - (b) Courier service;
 - (c) Registered Mail;
 - (d) Facsimile; or
 - (e) Other means ordered by the Board.
- (4) Service will be effective:
 - (a) On the day of delivery, where the document is sent by hand, courier or facsimile.
 - (b) On the date of receipt, where the document is delivered by registered mail.
 - (c) On a date determined by the Board, where service is made by any other means.

Number of Copies of Filings and other Documents

6. (1) Unless otherwise ordered by the Board, parties filing documents with the Board shall adhere to the following guidelines:
 - (a) File with the Board Secretary one original signed copy of each document.
 - (b) Provide 12 copies of the original documents with the Board.
 - (c) Serve one copy of each document to the parties.
 - (d) Distribute the documents as set out for each party in the Distribution Listing detailed in Item 5 of Appendix “A” to this Order.

Charge for Copies

7. (1) The Board will provide a copy of any document authored by the Board or its consultants at no charge.
- (2) Copies of documents originating or authored by a party should be requested directly from the party.
- (3) One copy of the transcript for each day of the hearing will be provided to each party at no cost.
- (4) Copies of the Legislation, Acts, and Regulations can be obtained from the Queen's Printer, viewed at the Board's Main Office, or viewed on the Board's Website at www.pub.nf.ca.
- (5) The Board will charge copy fees for the cost associated with the reproduction of any other document requested by an individual or party in accordance with the applicable legislation.

Electronic Filing

8. (1) Every party, unless otherwise ordered by the Board, shall file with the Board an electronic version of all documentation filed with the Board in this proceeding in the following manner:
 - a) Each individual document shall be converted while in electronic form to "read only" *.pdf format (Adobe Acrobat), still allowing for key word searches and cut and paste functionality.
 - b) Two days after the day of filing of the hard copy, one copy of the electronic *.pdf file will be emailed to ito@pub.nf.ca.
 - c) All Documents that are generated in-house by the parties are to be filed electronically in the manner prescribed in this Order, with the exception of:
 - i. Covering letters or correspondence;
 - ii. Background reports, Board orders or historical documentation that are unavailable or impractical to provide electronically, and
 - iii. Case law filed in support of Motions.
- (2) Copies of all documentation filed with the Board in this proceeding will be placed on the Board's website, (www.pub.nf.ca) where it will be available for review or download.
- (3) The electronic file will not be an official record for the purposes of this proceeding.

Public Viewing

9. Interested persons may view any or all documents filed in this proceeding on the Board's website, (www.pub.nf.ca) or at the Board's main office by contacting the Board Secretary.

Time

10. All references to time shall be clear days, that is the first and the last day shall be excluded.

Motions

11. (a) As noted in the Schedule of Dates, certain days have been set aside for the purpose of hearing motions. Subject to part (b) of this section, any party intending to file a motion must do so in accordance with this schedule.
- (b) The Board may hear motions on other than scheduled Motion days at the request of a party.
- (c) Motions must be filed in writing with the Board and served upon the parties two days before the scheduled Motion day.
- (d) The responding parties must file with the Board and serve upon the parties response briefs to a Motion one day before the scheduled Motion day.

Procedures for Presentation of Evidence and Cross-examination of Witnesses

12. (a) Pre-filed testimony of all non-expert witnesses and reports of expert witnesses should be adopted upon their taking the stand, and, unless otherwise objected to, will be accepted as evidence.
- (b) Direct examination should be limited to matters set out in the witness's pre-filed testimony. The Board may allow a witness to provide supplementary evidence or may restrict direct testimony where it is redundant with pre-filed evidence.
- (c) Direct evidence may be presented by way of a panel of witnesses. Prior notice must be given to the Board Secretary and the parties. When examining a panel of witnesses Counsel shall put each question to a particular witness on the panel.
- (d) Where co-counsel intend to examine the same witness, prior notice must be given to the Board Secretary and the parties. Only one counsel can examine a witness on a subject matter.

- (e) Direct examination will be followed by examinations in the following order, excluding the person calling the witness:

Newfoundland Power
Consumer Advocate
Hydro
Board Hearing Counsel

- (f) After the examinations and Board questions are completed the person calling the witness will have an opportunity to re-direct examination.
- (g) Matters arising during the presentation of evidence will proceed in the order set out for examination excluding the person raising the issue.
- (h) When presenting a document to a witness one copy will be provided to the witness, 12 copies to the Board Secretary and one copy to each party.

Other

13. Unless otherwise ordered by the Board, the rules of procedure set out in *Regulation 39/96* apply in this proceeding to the extent that they are consistent with this Order.

Appendix “A”- Item 5.

Distribution Listings

DISTRIBUTION ADDRESS LIST

1. **Board of Commissioners of Public Utilities**

Suite E210, Prince Charles Building
120 Torbay Road
P. O. Box 21040
St. John's, NL
A1A 5B2

Attention: G. Cheryl Blundon
Board Secretary
Telephone: 726-8600
Fax: 726-9604

e-mail: ito@pub.nf.ca
e-mail: cheryl@pub.nf.ca

2. **Newfoundland Power Inc.**

55 Kenmount Road
P.O. Box 8910
St. John's, NL
A1B 3P6

Attention: Gillian Butler, Q.C.
Peter Alteen, Counsel
Telephone: 737-5859
Fax: 737-2974

e-mail: gbutler@newfoundlandpower.com
e-mail: palteen@newfoundlandpower.com

3. **Consumer Advocate**

c/o Browne Fitzgerald Morgan & Avis
P. O. Box 23135
Terrace on the Square, Level II
St. John's, NL
A1B 4J9

Attention: Dennis Browne, Q.C.
Stephen Fitzgerald, Counsel
Telephone: 724-3800
Fax: 754-3800

e-mail: dbrowne@churchill-law.nf.net
e-mail: sfitzgerald@churchill-law.nf.net

4. **Newfoundland and Labrador Hydro**

Hydro Place, Columbus Drive
P.O. Box 12400
St. John's, NL
A1B 4K7

Attention: Maureen P. Greene, Q.C.
Geoffrey Young, Counsel
Telephone: 737-1465
Fax: 737-1782

e-mail: mgreene@nlh.nf.ca
e-mail: gyoung@nlh.nf.ca

Appendix "A"- Item 5.**NEWFOUNDLAND POWER DISTRIBUTION LISTING****Newfoundland Power Inc.**

55 Kenmount Road

P.O. Box 8910

St. John's, NL

A1B 3P6

Attention: Gillian Butler, Q.C.

Peter Alteen, Counsel

Telephone: 737-5859

Fax: 737-2974

e-mail: gbutler@newfoundlandpower.com

e-mail: palteen@newfoundlandpower.com

COPIES TO:**1. Board of Commissioners of Public Utilities**

Suite E210, Prince Charles Building

120 Torbay Road

P. O. Box 21040

St. John's, NL

A1A 5B2

Attention: G. Cheryl Blundon

Board Secretary

Telephone: 726-8600

Fax: 726-9604

e-mail: ito@pub.nf.ca

e-mail: cheryl@pub.nf.ca

2. Consumer Advocate

c/o Browne Fitzgerald Morgan & Avis

P. O. Box 23135

Terrace on the Square, Level II

St. John's, NL

A1B 4J9

Attention: Dennis Browne, Q.C.

Stephen Fitzgerald, Counsel

Telephone: 724-3800

Fax: 754-3800

e-mail: dbrowne@churchill-law.nf.net

e-mail: sfitzgerald@churchill-law.nf.net

3. Newfoundland and Labrador Hydro

Hydro Place, Columbus Drive

P.O. Box 12400

St. John's, NL

A1B 4K7

Attention: Maureen P. Greene, Q.C.

Geoffrey Young, Counsel

Telephone: 737-1465

Fax: 737-1782

e-mail: mgreene@nlh.nf.ca

e-mail: gyoung@nlh.nf.ca

Appendix "A"- Item 5.**CONSUMER ADVOCATE DISTRIBUTION LISTING****Consumer Advocate**

c/o Browne Fitzgerald Morgan & Avis

P. O. Box 23135

Terrace on the Square, Level II

St. John's, NL

A1B 4J9

Attention: Dennis Browne, Q.C.

Stephen Fitzgerald, Counsel

Telephone: 724-3800

Fax: 754-3800

e-mail: dbrowne@churchill-law.nf.net

e-mail: sfitzgerald@churchill-law.nf.net

COPIES TO:**1. Board of Commissioners of Public Utilities**

Suite E210, Prince Charles Building

120 Torbay Road

P. O. Box 21040

St. John's, NL

A1A 5B2

Attention: G. Cheryl Blundon

Board Secretary

Telephone: 726-8600

Fax: 726-9604

e-mail: ito@pub.nf.ca

e-mail: cheryl@pub.nf.ca

2. Newfoundland Power Inc.

55 Kenmount Road

P.O. Box 8910

St. John's, NL

A1B 3P6

Attention: Gillian Butler, Q.C.

Peter Alteen, Counsel

Telephone: 737-5859

Fax: 737-2974

e-mail: gbutler@newfoundlandpower.com

e-mail: palteen@newfoundlandpower.com

3. Newfoundland and Labrador Hydro

Hydro Place, Columbus Drive

P.O. Box 12400

St. John's, NL

A1B 4K7

Attention: Maureen P. Greene, Q.C.

Geoffrey Young, Counsel

Telephone: 737-1465

Fax: 737-1782

e-mail: mgreene@nlh.nf.ca

e-mail: gyoung@nlh.nf.ca

Appendix "A"- Item 5.**HYDRO DISTRIBUTION LISTING****Newfoundland and Labrador Hydro**

Hydro Place, Columbus Drive

P.O. Box 12400

St. John's, NL

A1B 4K7

Attention: Maureen P. Greene, Q.C.

Geoffrey Young, Counsel

Telephone: 737-1465

Fax: 737-1782

e-mail: mgreene@nlh.nf.ca

e-mail: gyoung@nlh.nf.ca

COPIES TO:**1. Board of Commissioners of Public Utilities**

Suite E210, Prince Charles Building

120 Torbay Road

P. O. Box 21040

St. John's, NL

A1A 5B2

Attention: G. Cheryl Blundon

Board Secretary

Telephone: 726-8600

Fax: 726-9604

e-mail: ito@pub.nf.ca

e-mail: cheryl@pub.nf.ca

2. Newfoundland Power Inc.

55 Kenmount Road

P.O. Box 8910

St. John's, NL

A1B 3P6

Attention: Gillian Butler, Q.C.

Peter Alteen, Counsel

Telephone: 737-5859

Fax: 737-2974

e-mail: gbutler@newfoundlandpower.com

e-mail: palteen@newfoundlandpower.com

3. Consumer Advocate

c/o Browne Fitzgerald Morgan & Avis

P. O. Box 23135

Terrace on the Square, Level II

St. John's, NL

A1B 4J9

Attention: Dennis Browne, Q.C.

Stephen Fitzgerald, Counsel

Telephone: 724-3800

Fax: 754-3800

e-mail: dbrowne@churchill-law.nf.net

e-mail: sfitzgerald@churchill-law.nf.net