

**P.U. 28(2006)**

**IN THE MATTER OF** the *Electrical Power Control Act*, SNL 1994, Chapter E-5.1 (the “*EPCA*”) and the matter of the *Public Utilities Act* RSNL 1990, Chapter P-47 (the “*Act*”);

**AND IN THE MATTER OF** an application by Newfoundland and Labrador Hydro for approval of, *inter alia*, rates to be charged its customers (the “*Application*”).

**BEFORE:**

**Robert Noseworthy**  
**Chair and Chief Executive Officer**

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

**PROCEDURAL ORDER**

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**WHEREAS** Newfoundland and Labrador Hydro (“NLH”), filed an Application with the Board of Commissioners of Public Utilities (“the Board”) on August 3, 2006 for an Order of the Board approving, among other things, rates to be charged as of January 1, 2007 for the supply of power and energy to its customers; and

**WHEREAS** Notice of the Application and Pre-hearing Conference was published in newspapers throughout Newfoundland and Labrador beginning on August 19, 2006; and

**WHEREAS** after publishing Notice, the Board received Intervenor Submissions from the Consumer Advocate, Newfoundland Power Inc., and a group of customers of NLH referred to as the Island Industrial Customers; and

**WHEREAS** on September 7, 2006 a Pre-hearing Conference was held in the Board’s Hearing Room, 2<sup>nd</sup> Floor, Prince Charles Building, 120 Torbay Road, St. John’s; and

**WHEREAS** issues addressed at the Pre-hearing Conference included the procedures to be followed in the proceeding, the Order of Witnesses, and the Schedule of Dates; and

**WHEREAS** another issue addressed at the Pre-hearing Conference was whether it was reasonable and appropriate to postpone consideration of the request set out in the Application for approval in principle of the straight line and equal life group depreciation methodology; and

**WHEREAS** the rates proposed in the Application do not reflect the proposed changes to the depreciation methodology which, if considered as set out in the Application, were intended to be implemented at a later date; and

**WHEREAS** the Consumer Advocate and the Industrial Customers advocate the deferral of consideration of the depreciation issue to a generic proceeding to be held after the hearing of the Application; and

1    **WHEREAS** NP did not oppose deferral of the depreciation issue and acknowledged the position of  
2    the Consumer Advocate and the Industrial Customers as being reasonable; and

3  
4    **WHEREAS** NLH was available to proceed with the hearing of the depreciation issue and while  
5    expressing concern about deferring the issue did not oppose having the matter set aside to be addressed  
6    after the conclusion of this Application; and

7  
8    **WHEREAS** having heard from the parties, and giving regard to their agreement with respect to the  
9    Rules of Procedure, the Order of Witnesses and the Schedule of Dates, the Board makes the  
10   following order pursuant to the provisions of the *Act*.

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13    **IT IS THEREFORE ORDERED THAT:**

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16       1. The Registered Intervenors in this proceeding are as set out in the Distribution List attached  
17       as Appendix “A” to this Order.

18       2. The intended Order of Witnesses is as set out in Appendix “B” to this Order, which may be  
19       changed with appropriate notice to the Board and other parties to the hearing.

20       3. The Schedule of Dates as set out in Appendix “C” to this Order shall be observed by the  
21       parties, unless otherwise accepted by the Board.

22       4. The Rules of Procedure as set out in Appendix “D” to this Order shall be observed by the  
23       parties, unless otherwise directed by the Board.

24       5. The request set out in paragraph 6 (6) (o) of the Application for approval, in principle, of the  
25       straight line and equal life group depreciation methodology will be addressed after the  
26       conclusion of the Application in a process to be established by the Board beginning in 2007.

**DATED** at St. John's, Newfoundland and Labrador this 12<sup>th</sup> day of September 2006.

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Robert Noseworthy  
Chair & Chief Executive Officer

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Darlene Whalen, P.Eng.  
Vice-Chairperson

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Barbara Thistle  
Assistant Board Secretary

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**Appendix "A"**

**Distribution Listing**

**The following is a Distribution Address Listing:**

**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

G. Cheryl Blundon e-mail: [cblundon@pub.nl.ca](mailto:cblundon@pub.nl.ca)  
Director of Corporate Services and Board Secretary  
Telephone: 726-8600  
Fax: 726-9604

**Applicant:**

**2. Newfoundland and Labrador Hydro**

*represented by*

Gillian Butler, Q.C., and Geoffrey P. Young  
Counsel  
Hydro Place, Columbus Drive  
P. O. Box 12400  
St. John's, NL  
A1B 4K7

Gillian Butler, Q.C.  
Geoffrey P. Young e-mail: [gyoung@nlh.nl.ca](mailto:gyoung@nlh.nl.ca)  
Telephone: 737-1277  
Fax: 737-1782

**Registered Intervenors:**

**3. Consumer Advocate**

*represented by*

Thomas Johnson  
c/o O'Dea Earle Law Offices  
323 Duckworth Street  
St. John's, NL  
A1C 5X4

Attention: Thomas Johnson e-mail: [tjohnson@odeaearle.nf.ca](mailto:tjohnson@odeaearle.nf.ca)  
Telephone: 726-3524  
Fax: 726-9600

1 4. **Industrial Customers**2 *represented by*

3

4 Joseph S. Hutchings, Q.C. and

5 Poole Althouse

6 P. O. Box 812

7 49-51 Park Street

8 Corner Brook, NL

9 A2H 6H7

Paul L. Coxworthy

Stewart McKelvey

P. O. Box 5038

Cabot Place, 100 New Gower Street

St. John's, NL

A1C 5V3

10 Attention: Joseph S. Hutchings

e-mail: [jhutchings@pa-law.ca](mailto:jhutchings@pa-law.ca)

11 Telephone: (709) 637-6425

12 Fax: (709) 634-8247

13 Paul L. Coxworthy

e-mail: [pcoxworthy@smss.com](mailto:pcoxworthy@smss.com)

14 Telephone: 570-8830

15 Fax: (709) 722-4565

16

17 5. **Newfoundland Power Inc.**18 *represented by*

19

20 Ian F. Kelly, Q.C. and Peter Alteen

21 55 Kenmount Road

22 P.O. Box 8910

23 St. John's, NL

24 A1B 3P6

25

26 Attention: Ian F. Kelly, Q.C.

27 Peter Alteen, Counsel

e-mail: [palteen@newfoundlandpower.com](mailto:palteen@newfoundlandpower.com)

28 Telephone: 737-5859

29 Fax: 737-2974

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**Appendix “B”**

**Order of Witnesses**

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The following order of witnesses is established:

**NLH - Presentation of Application**

NLH - President & Chief Executive Officer -

Ed Martin

NLH - Panel:

Vice-President, Regulatory Affairs

Jim R. Haynes

Manager, System Operations and Customer Service

Rob Henderson

Manager, Transmission and Rural Operations –Central Region

Rob Cater

NLH - Vice-President, Finance and Chief Financial Officer

Derrick F. Sturge

NLH - Corporate Controller and Treasurer

Mark Bradbury

NLH - Manager, Rates and Financial Planning

Glenn H. Mitchell

**Consultants/Expert Witnesses**

NLH - Cost of Service Witness

Robert D. Greneman

CA – Cost of Service Witness

Douglas Bowman

NP - Cost of Service Witness

Larry Brockman

IC - Cost of Service Witness

Patrick Bowman

**Other witnesses**

BOARD - Financial Consultant

Bill Brushett

## Appendix “C”

### Schedule of Dates

The following dates are set:

#### August 2006

|           |        |
|-----------|--------|
| August 3  | Filing |
| August 19 | Notice |

#### September 2006

|              |                         |
|--------------|-------------------------|
| September 5  | Intervenors Submissions |
| September 7  | Pre-Hearing Conference  |
| September 18 | RFIs                    |

#### October 2006

|                 |  |
|-----------------|--|
| October 2       | Responses to RFIs                          |
| October 6       | Witness Lists, Issues Lists                |
| October 10      | 2 <sup>nd</sup> Round of RFIs              |
| October 13      | Experts’ Reports, and Pre-filed evidence   |
|                 | Counsel Meeting – 10:00 a.m.               |
|                 | Motions Day – 2:00 p.m.                    |
| October 17      | Responses to 2 <sup>nd</sup> Round of RFIs |
| October 20      | RFIs on Experts’ Reports                   |
| October 24 & 25 | Negotiation Days                           |
| October 27      | Responses to RFIs on Experts’ Reports      |
| October 30      | Counsel Meeting – 10:00 a.m.               |
|                 | Motion Day – 2:00 p.m.                     |
| October 31      | Hearing Start / Ed Martin                  |

#### November 2006

|                  |  |
|------------------|--|
| November 1, 2, 3 | Ed Martin/ Panel: Jim Haynes, Rob Henderson, Rob Cater |
| November 3, 6    | Derrick Sturge, Mark Bradbury                          |
| November 7       | Glenn Mitchell   |
| November 8, 9    | Other witnesses  |
| November 15      | Robert D. Greneman                                     |
| November 16      | Douglas Bowman   |
| November 17      | Larry Brockman   |
| November 20      | Patrick Bowman   |
| November 21-24   | Travel, if determined necessary                        |
| November 27-30   | Other witnesses  |

#### December 2006

|             |                     |
|-------------|---------------------|
| December 1  | Other witnesses     |
| December 11 | Written Submissions |
| December 14 | Oral Submissions    |



**Appendix "D"****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) Single sided.
  - (c) Each page shall be numbered.
  - (d) 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 will 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.

1 **Revisions to Documents**

- 2
- 3 4. (1) A party may revise any document to correct errors or to provide new information
- 4 before the completion of the hearing.
- 5
- 6 (2) Where all or any part of a document is revised, each revision shall indicate the
- 7 page(s) revised, the line(s) revised, the number of the revision (i.e. 1<sup>st</sup> revision), and
- 8 the date of the revision.
- 9
- 10 (3) Where a revision is made to a document the Board may, upon its own motion or
- 11 upon the request of another party, after receiving submissions of the parties, make
- 12 any order in respect of the revisions.
- 13

14 **Service of Documents**

- 15
- 16 5. (1) All documents shall be served upon the other parties in this proceeding.
- 17
- 18 (2) Parties will appoint one person to receive documents for this proceeding.
- 19
- 20 (3) Service may be made as follows:
- 21
- 22 (a) Hand delivery;
- 23 (b) Courier service;
- 24 (c) Registered Mail;
- 25 (d) Facsimile; or
- 26 (e) Other means ordered by the Board.
- 27
- 28 (4) Service will be effective:
- 29
- 30 (a) On the day of delivery, where the document is sent by hand, courier or
- 31 facsimile.
- 32 (b) On the date of receipt, where the document is delivered by registered mail.
- 33 (c) On a date determined by the Board, where service is made by any other
- 34 means.
- 35

36 **Number of Copies of Filings and other Documents**

- 37
- 38 6. (1) Unless otherwise ordered by the Board, parties filing documents with
- 39 the Board shall adhere to the following guidelines:
- 40
- 41 (a) File with the Board Secretary one original signed copy of each document.
- 42
- 43 (b) Provide 10 copies of the original documents with the Board.
- 44
- 45 (c) Serve one copy of each document to the parties.
- 46
- 47 (d) Distribute the documents to the Distribution Listing attached to these
- 48 rules.
- 49

## 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.nl.ca](http://www.pub.nl.ca).
- (5) The Board may 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.nl.ca](mailto:ito@pub.nl.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.nl.ca](http://www.pub.nl.ca)) where it will be available for review or download.
- (3) The electronic file is not an official record for the purposes of this proceeding.

1 **Public Viewing**

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3 9. Interested persons may view any or all documents filed in this proceeding on the Board's  
4 website, ([www.pub.nl.ca](http://www.pub.nl.ca)) or at the Board's main office by contacting the Board Secretary.

5

6 **Time**

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

9

10 **Motions**

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12 11. (a) As noted in the Schedule of Dates, certain days have been set aside for the purpose of  
13 hearing motions. Subject to part (b) of this section, any party intending to file a  
14 motion must do so in accordance with this schedule.

15

16 (b) The Board may hear motions on other than scheduled Motion Days where  
17 determined by the Board to be necessary.

18

19 (c) Motions must be filed in writing with the Board and served upon the parties two  
20 days before the scheduled Motion Day.

21

22 (d) The responding parties must file with the Board and serve upon the parties response  
23 briefs to a Motion one day before the scheduled Motion Day.

24

25 **Information Requests**

26

27 12. (a) The Parties shall observe the dates set for the issuance and filing of requests for  
28 information ("RFIs") and dates for responses to RFIs.

29

30 (b) RFIs shall be:

31

32 i. labelled with the initials of the party issuing the RFI;

33 ii. numbered consecutively with whole numbers; and

34 iii. designated so as to provide notice of to whom the RFI is directed (i.e. PUB 10  
35 NLH).

36

37 (c) RFIs, and responses to RFIs, shall constitute part of the record in the proceeding  
38 and will be considered to be evidence in the proceeding.

39

40 (d) Where ordered by the Board, a party providing a response to an RFI shall make a  
41 witness or witnesses available for cross-examination to speak to the information  
42 provided in the response.

43

44 **Procedures for Presentation of Evidence and Cross-examination of Witnesses**

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46 13. (a) Pre-filed testimony of all non-expert witnesses and reports of expert witnesses should  
47 be adopted as evidence by the witnesses in sworn testimony.

48

- 1  
2 (b) Direct examination should be limited to matters set out in the witness's pre-filed  
3 testimony. The Board may allow a witness to provide supplementary evidence or  
4 may restrict direct testimony where it is irrelevant, redundant or not helpful to the  
5 Board in making its decision.  
6
- 7 (c) Direct evidence may be presented by way of a panel of witnesses. Prior notice must  
8 be given to the Board Secretary and the parties. When examining a panel of  
9 witnesses Counsel shall put each question to a particular witness on the panel. Co-  
10 counsel may examine the same witness, or panel of witnesses, provided notice is  
11 given to the Board Secretary and the parties prior to the start of the cross-  
12 examination of the witness.  
13
- 14 (d) Where co-counsel intend to examine the same witness, prior notice must be given to  
15 the Board Secretary and the parties. Co-counsel should not examine the same  
16 witness on the same subject matter.  
17
- 18 (e) Unless otherwise ordered by the Board, the Order of Presentation in the hearing,  
19 including cross-examination, will be as follows, excluding the party calling the  
20 witness, or making the motion or objection:  
21  
22 NLH  
23 Consumer Advocate  
24 IC  
25 NP  
26 Board Counsel  
27
- 28 (f) The party calling the witness shall be afforded an opportunity for re-direct  
29 examination.  
30
- 31 (g) The Board may pose questions to a witness. Questions on new matters arising from  
32 the questions of the Board after re-direct examination as set out in the Order of  
33 Presentation with the exception that the party calling the witness is last.  
34
- 35 (h) When presenting a document to a witness one copy will be provided to the witness,  
36 10 copies to the Board Secretary and one copy to each party.  
37
- 38 (i) A party wishing to examine or cross-examine a witness on a document that is not:  
39  
40 a. already part of the record of the proceeding;  
41 b. a portion of a transcript of the witness' own testimony given within the preceding  
42 two (2) years or in NLH's last two (2) General Rate Applications, or  
43 c. an Order of the Board,  
44  
45 shall:  
46  
47 i file a copy of the document with the Board and all parties by 3 p.m. on the last  
48 business day before the examination or cross-examination is to take place;  
49

- 1           ii provide ten (10) copies to the Board Secretary on the day of the examination or
- 2           cross-examination; and
- 3           iii give the witness a reasonable time to review the document before the witness is
- 4           asked to answer any questions concerning the document.

5

6           (j) Where the witness adopts the document it will be marked as an exhibit to his

7           testimony.

8

9           (k) Where a document was not adopted as part of the witness' testimony the document

10          may be:

- 11
- 12          a. if the parties consent, entered as a consent exhibit; or
- 13          b. entered as an information item.

14

15       **Other**

16

17       14. Unless otherwise ordered by the Board, the rules of procedure set out in *Regulation 39/96*

18       apply in this proceeding to the extent that they are consistent with this Order.