

**NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

AN ORDER OF THE BOARD

NO. P. U. 32(2010)

1 **IN THE MATTER OF** the *Electrical Power*
2 *Control Act, 1994*, SNL 1994, Chapter E-5.1 (the
3 “*EPCA*”) and the *Public Utilities Act*, RSNL 1990,
4 Chapter P-47 (the “*Act*”) and regulations thereunder;
5

AND

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7
8 **IN THE MATTER OF** an application
9 (the “Application”) by Newfoundland Power Inc.
10 (“Newfoundland Power”) for an Order:
11

- 12 (i) approving a revised rate of return on rate
13 base for 2011 and a revised definition of the
14 Excess Earnings Account; and
15 (ii) permitting deferral until December 15, 2010 of
16 Newfoundland Power’s application for a revised
17 schedule of rates, tolls and charged to be
18 effective January 1, 2011.
19

20 **WHEREAS** Newfoundland Power is a corporation duly organized and existing under the laws of
21 the Province of Newfoundland and Labrador, is a public utility within the meaning of the *Act*, and is
22 also subject to the provisions of the *EPCA*; and
23

24 **WHEREAS** by Order Nos. P.U. 16(1998-99); P.U. 36(1998-99); P.U. 19(2003); P.U. 32(2007) and
25 P.U. 43(2009), the Board ordered the establishment of the Formula for use in determining
26 Newfoundland Power’s rate of return on rate base and in setting rates, tolls and charges in years
27 subsequent to a test year; and
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29 **WHEREAS** by Order No. P.U. 43(2009) the Board ordered that Newfoundland Power shall apply,
30 by no later than November 30th in each of 2010 and 2011, for the application of the Formula to the
31 rates of return on rate base and, if required, for a revised schedule of rates, tolls and charges to be
32 effective January 1st in each year following, unless the Board orders otherwise; and

1 **WHEREAS** by Order No. P.U. 12(2010) the Board ordered that the risk free rate used to
2 calculate the forecast cost of common equity for use in the Formula to establish Newfoundland
3 Power's annual rate of return on rate base for 2011 and 2012 shall be determined by adding (i) the
4 average of the 3-month and 12-month forecast of 10-year Government of Canada Bonds as
5 published by *Consensus Forecasts* in the preceding November, and (ii) the average observed spread
6 between 10-year and 30-year Government of Canada Bonds for all trading days in the preceding
7 October; and

8
9 **WHEREAS** by Order Nos. P.U. 43(2009) and P.U. 46(2009) the Board approved the establishment
10 of the 2010 test year parameters for use in calculating Newfoundland Power's rate of return on rate
11 base and customer rates; and

12
13 **WHEREAS** by Order No. P.U. 46(2009) the Board approved the schedule of rates, tolls and charges
14 to reflect a range of return on rate base of 8.05% to 8.41% for 2010; and

15
16 **WHEREAS** by Order No. P.U. 46(2009) the Board approved the definition of the Excess Earnings
17 Account whereby earnings in 2010 and subsequent years in excess of the maximum allowable rate of
18 return on rate base of 8.41% are to be credited to the Excess Earnings Account, unless otherwise
19 ordered by the Board; and

20
21 **WHEREAS** by Order No. P.U. 46(2009) the Board approved the 2010 forecast average rate base of
22 \$871,585,000; and

23
24 **WHEREAS** on November 24, 2010 Newfoundland Power submitted the Application requesting an
25 Order of the Board approving:

- 26
27 (i) a revised rate of return on rate base for 2011 of 7.96% in a range of 7.78% to 8.14%;
28
29 (ii) a revised definition of the Excess Earnings Account reflecting the revised rate of
30 return on rate base; and
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32 (iii) the deferral to December 15, 2010 of the requirement to file an application for a
33 revised schedule of rates, tolls and charges effective January 1, 2011.
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35 **WHEREAS** Appendix A to the Application sets out the calculation in accordance with Order No.
36 P.U. 12(2010) of the forecast cost of common equity for 2011 of 8.38%; and

37
38 **WHEREAS** Appendix B to the Application sets out the calculation of the rate of return on rate base
39 for 2011 of 7.96%, based upon the operation of the Formula and a 2011 cost of common equity of
40 8.38%; and

1 **WHEREAS** Appendices C and D set out the calculation of the return on rate base for 2011 and
2 the change to the 2010 test year revenue requirement for purposes of the Formula based on the
3 change in return on rate base resulting from the use of the Formula; and
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5 **WHEREAS** Appendix E to the Application sets out a proposed revised definition of the Excess
6 Earnings Account for 2011; and
7

8 **WHEREAS** on November 30, 2010 the Consumer Advocate and Newfoundland and Labrador
9 Hydro were requested to comment on the Application; and
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11 **WHEREAS** on December 3, 2010 the Consumer Advocate advised that he takes no objection to the
12 granting of the Application; and
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14 **WHEREAS** on December 3, 2010 Newfoundland and Labrador Hydro advised that it had no
15 comments on the Application; and
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17 **WHEREAS** the Application was reviewed by the Board's Financial Consultants, Grant Thornton,
18 and was found to be accurately presented in accordance with the information found in *Consensus*
19 *Forecasts*, and past Board Orders; and
20

21 **WHEREAS** the Application proposes that the filing of an application for revised customer rates as
22 a result of the operation of the Formula for 2011 be deferred, and the Board is satisfied that, for
23 purposes of regulatory efficiency, it is appropriate to set December 15, 2010 as the deadline for the
24 filing of an application for a revised schedule of rates, tolls and charges.
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26 **IT IS THEREFORE ORDERED THAT:**
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- 28 1. The Board approves:
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30 (i) a rate of return on rate base for Newfoundland Power for 2011 of 7.96% in a range of
31 7.78% to 8.14%;
32
33 (ii) a revised definition of the Excess Earnings Account as set out in Schedule 1; and
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35 2. Newfoundland Power shall file an application for a revised schedule of rates, tolls and
36 charges to become effective January 1, 2011 on or before December 15, 2010.
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38 3. Newfoundland Power shall pay all expenses of the Board arising from this Application.

DATED at St. John's, Newfoundland and Labrador, this 10th day of December 2010.

Andy Wells
Chair & Chief Executive Officer

Darlene Whalen, P.Eng.
Vice-Chair

Dwanda Newman, LL.B.
Commissioner

James Oxford
Commissioner

Cheryl Blundon
Board Secretary

Current Definition

3.05 Excess Earnings Account **284xx**

This account shall be credited with any earnings in excess of the upper limit of the allowed range of return on rate base as determined by the Board. Disposition of any balance in this account shall be as determined by the Board. For 2010 and subsequent years, all earnings in excess of an 8.41% rate of return on rate base shall, unless otherwise ordered by the Board, be credited to this account.

Proposed Definition

3.05 Excess Earnings Account **284xx**

This account shall be credited with any earnings in excess of the upper limit of the allowed range of return on rate base as determined by the Board. Disposition of any balance in this account shall be as determined by the Board. For 2011 and subsequent years, all earnings in excess of an 8.14% rate of return on rate base shall, unless otherwise ordered by the Board, be credited to this account.