

1 **Q. If the Board were to find as a fact that the proposed sale of joint use support**  
2 **structures results in a negative impact to customers, would the proposed sale be**  
3 **consistent with the *Public Utilities Act* and the *Electrical Power Control Act*?**  
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5 A. Newfoundland Power has an obligation under the *Public Utilities Act* (the “PUA”) to  
6 provide service to all who require it (s. 54) and to ensure that its service and facilities are  
7 reasonably safe and adequate (s. 37).  
8

9 The *Electrical Power Control Act, 1994* (the “EPCA”) sets out the electrical power  
10 policy of the Province (s. 3). The electrical power policy requires all sources and  
11 facilities to be managed and operated in a manner that results in:  
12

- 13 (i) the most efficient production, transmission and distribution of power;
- 14 (ii) equitable access to an adequate supply of power for all consumers in the province; and
- 15 (iii) delivery of power to consumers at the lowest possible cost consistent with reliable  
16 service.  
17

18 The EPCA further requires that, in carrying out its duties and exercising its powers under  
19 the EPCA or the PUA, the Board shall implement the power policy of the Province and,  
20 in doing so shall apply tests which are consistent with generally accepted sound public  
21 utility practice.  
22

23 Newfoundland Power’s evidence in this proceeding is that the proposed sale of Joint Use  
24 Support Structures will result in continued Joint Use of Support Structures in its service  
25 territory on an agreed basis that:

- 26 (i) is consistent with least-cost reliable electrical service;<sup>1</sup>
- 27 (ii) is consistent with the maintenance of current levels of service to Newfoundland  
28 Power’s customers;<sup>2</sup> and
- 29 (iii) results in fair and equitable sharing of the costs and benefits of Joint Use, consistent  
30 with current Canadian public utility practice and longstanding Joint Use practice in  
31 Newfoundland Power’s service territory.<sup>3</sup>  
32

33 This is consistent with both the PUA and the EPCA.  
34

35 Based on the foregoing, and on the evidence in this proceeding, it is difficult for  
36 Newfoundland Power to envisage any basis for a finding of fact by the Board that the  
37 proposed sale would result in a negative impact to customers.<sup>4</sup>

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<sup>1</sup> See Prefiled Evidence, Exhibit 8; the Response to Request for Information PUB-NP-75.

<sup>2</sup> See Prefiled Evidence, Page 10, lines 14 to 17.

<sup>3</sup> See Prefiled Evidence, Page 5, lines 1 to 16; Exhibit 2 and 3.

<sup>4</sup> See the response to Request for Information CA-NP-1 for a discussion, in the context of the proposed sale, of the “no harm” test as applied by the Alberta Energy & Utilities Board and referred to by the Supreme Court of Canada in the *ATCO Gas* case.