

1 **Q. In light of the broad authority to transfer poles in section 8.03 of the Joint Use**
2 **Agreement, please confirm that Newfoundland Power would be required to seek the**
3 **approval of the Board before any transfer of poles for any reason.**
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5 A. Clause 8.03 of the Joint Use Agreement (“JUA”) provides for transfers of Support
6 Structures between the parties where they agree that such transfers are desirable. No
7 transfers of Support Structures pursuant to Clause 8.03 are presently within the
8 contemplation of the parties.
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10 If Newfoundland Power and Bell Aliant were to determine that a transfer of
11 Newfoundland Power-owned Support Structures to Bell Aliant was desirable, such
12 transfer may require the approval of the Board pursuant to Section 48 of the *Public*
13 *Utilities Act* (the “Act”).¹
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15 If the parties were to determine that a transfer of Bell Aliant-owned Support Structures to
16 Newfoundland Power was desirable, such transfer would require the approval of the
17 Board only if the transfer was a purchase to which Section 41 (3) of the Act applies.²
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19 Provisions such as Clause 8.03 of the JUA have existed in Joint Use Agreements since at
20 least the late 1980s.

¹ Section 48 of the Act requires the approval of the Board for the sale, assignment or transfer of “the whole of [the utility’s] undertaking or a part of it.” The transfer of Newfoundland Power-owned Support Structures to Bell Aliant, such as that proposed in this Application, would be subject to such approval. However, where Newfoundland Power rebuilds a distribution line, and chooses to relocate the rebuilt line (to a location nearer a public road, for example), the abandoned Support Structures would no longer be used and useful in the provision of electrical service and would normally be retired. In the practice of the Board, this would not constitute abandonment of plant pursuant to Section 38 of the Act. Should Bell Aliant elect to remain on the retired Support Structures, it would be necessary to transfer title to the Support Structures to Bell Aliant. In Newfoundland Power’s view, this would not require the Board’s approval pursuant to Section 48.

² Approval of the Board would be required only if the cost to Newfoundland Power of such a purchase is in excess of \$50,000, as indicated under Section 41 (3) of the Act.