



NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES
120 Torbay Road, P.O. Box 21040, St. John's, Newfoundland and Labrador, Canada, A1A 5B2

2021-10-06

Newfoundland Power Inc.

Dominic Foley
Corporate Counsel
Newfoundland Power Inc.
55 Kenmount Road, P.O. Box 8910
St. John's, NL A1B 3P6
E-mail: dfoley@newfoundlandpower.com

Newfoundland and Labrador Hydro

Shirley Walsh
Senior Legal Counsel, Regulatory
P.O. Box 12400
Hydro Place, Columbus Drive
St. John's, NL A1B 4K7
E-mail: shirleywalsh@nlh.nl.ca

Consumer Advocate

Dennis Browne, Q.C.
Browne Fitzgerald Morgan & Avis
Terrace on the Square, Level 2
P.O. Box 23135
St. John's, NL A1B 4J9
E-mail: dbrowne@bfma-law.com

Dear Madam/Sirs:

Re: Newfoundland Power Inc. - 2022 Capital Budget Application - To Parties - Response to Consumer Advocate's Request for Reconsideration of September 22, 2021 Decision not to Grant an Oral Hearing

On September 22, 2021 the Board declined to grant the Consumer Advocate's request for an oral hearing for Newfoundland Power's 2022 Capital Budget Application (the "Application"). On September 24, 2021 the Consumer Advocate filed a request for reconsideration by the Board of this decision. Newfoundland Power filed comments on the Consumer Advocate's request on September 28, 2021.

The Board has reviewed the request of the Consumer Advocate and is not persuaded that its decision to proceed by way of the written record in this proceeding should be reversed. Pursuant to section 28 of the *Board of Commissioners of Public Utilities Regulations, 1996* an application for a reversal, change or modification of a decision must set out the facts and circumstances which arose subsequent to the decision or the consequences of the decision justifying the request. The Consumer Advocate's request again referenced his dissatisfaction with the Board's Capital Budget Guidelines and suggested that a public oral hearing was necessary to ensure public accountability in the Board's review of the Application. Additional commentary was provided on the evidence of Mr. Todd and its relevance to the Board's consideration of the Application as well as further details related to the issues associated with the COVID-19 pandemic. The Consumer Advocate

argued that the Board's comments in relation to the identification of the specific issues to be addressed in a public hearing "ignores the Consumer Advocate's expressed desire to further scrutinize the effects of the COVID-19 pandemic and John Todd's report". The Consumer Advocate's request reiterates and elaborates on the arguments made in the original request for a hearing and does not set out new facts or circumstances which justify a reversal, change or modification of the Board's decision.

In considering the Consumer Advocate's request for an oral hearing the Board considered all arguments made in support of the request, including the Consumer Advocate's expressed intention to address Mr. Todd's evidence through oral testimony. The Board does not agree that the failure to reverse its decision to proceed based on the written record is inconsistent with fairness, due process and natural justice because it prevents the Consumer Advocate from calling John Todd to provide oral testimony. The Board decided that an oral hearing was not necessary in the circumstances and that the issues to be decided in the Application can be addressed based on the written record. There has been no new information put before the Board to persuade it that this is still not the case.

The Board will not reverse, change or modify its decision not to conduct an oral hearing in relation to the Application.

If you have any questions, please do not hesitate to contact the Board's Legal Counsel, Ms. Jacqui Glynn, by email, jglynn@pub.nl.ca or by telephone 709-726-6781.

Sincerely,



Cheryl Blundon
Board Secretary

ecc **Newfoundland Power Inc.**
Liam O'Brien, E-mail: lobrien@curtisdawe.com
NP Regulatory, E-mail: regulatory@newfoundlandpower.com
Newfoundland and Labrador Hydro
NLH Regulatory, E-mail: NLHRegulatory@nlh.nl.ca

Consumer Advocate
Bernard M. Coffey, Q.C., E-mail: berncoffey@gmail.com
Stephen Fitzgerald, E-mail: sfitzgerald@bfma-law.com
Sarah Fitzgerald, E-mail: sarahfitzgerald@bfma-law.com
Bernice Bailey, E-mail: bbailey@bfma-law.com