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*Newfoundland & Labrador*  
**BOARD OF COMMISSIONERS OF PUBLIC UTILITIES**

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**ORDER NO. P. U. 43(2009)**

**IN THE MATTER OF**  
the *Public Utilities Act*, RSNL 1990, Chapter P-47 (the "*Act*") and  
the *Electrical Power Control Act* RSNL 1994, Chapter E-5.1 (the "*EPCA*") and  
regulations thereunder;

**AND IN THE MATTER OF**  
a general rate application by Newfoundland Power Inc. for approval of, *inter alia*,  
rates to be charged its customers.

**BEFORE:**

**Andy Wells**  
**Chair and Chief Executive Officer**

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

**Dwanda Newman, LL.B.**  
**Commissioner**

1 **WHEREAS** Newfoundland Power Inc. (“Newfoundland Power”) is a corporation duly  
2 organized and existing under the laws of the Province of Newfoundland and Labrador, is a public  
3 utility within the meaning of the *Act*, and is subject to the provisions of the *EPCA*; and  
4

5 **WHEREAS** the *Act* provides that the Board has general supervision of public utilities and  
6 requires that a public utility submit for the approval of the Board the rates, tolls and charges for  
7 the service provided by the public utility and the rules and regulations which relate to that  
8 service; and  
9

10 **WHEREAS** on May 28, 2009 Newfoundland Power filed a general rate application with the  
11 Board of Commissioners of Public Utilities (the “Board”) for a review of its 2010 costs and  
12 customer rates (the “Application”); and  
13

14 **WHEREAS** Newfoundland Power and the Consumer Advocate filed a settlement agreement on  
15 September 23, 2009; and  
16

17 **WHEREAS** on September 28, 2009 Newfoundland Power amended the Application,  
18 incorporating the settlement agreement proposals, updated forecasts as well as the impact of  
19 Board Orders issued since the filing of the Application, and set out the following proposals for  
20 approval of the Board:  
21

- 22 “1. *Newfoundland Power proposes that the Board discontinue use of the Formula for setting*  
23 *the allowed rate of return on rate base for Newfoundland Power as set out in the*  
24 *evidence filed in support of the Application and this Amended Application.*  
25
- 26 2. *Newfoundland Power proposes that the Board approve, with effect from January 1, 2010,*  
27 *the adoption of the accrual method of accounting for other post employment benefits and*  
28 *for income tax related to other post employment benefits as set out in the evidence filed in*  
29 *support of the Application and this Amended Application.*  
30
- 31 3. *Newfoundland Power proposes that the Board approve, with effect from January 1, 2010,*  
32 *the Pension Expense Variance Deferral Account as set out in the evidence filed in*  
33 *support of the Application and this Amended Application.*  
34
- 35 4. *Newfoundland Power proposes that the Board approve amortizations, with effect from*  
36 *January 1, 2010, to:*  
37
- 38 (a) *amortize the recovery over a four year period of certain 2009 conservation costs*  
39 *associated with implementation of the Conservation Plan; and*  
40
- 41 (b) *recover over one year an estimated \$750,000 in Board and Consumer Advocate*  
42 *costs related to the Application;*  
43
- 44 *as set out in the evidence filed in support of the Application and this Amended*  
45 *Application.*

- 1           5.     *Newfoundland Power proposes that the Board approve that the next depreciation study*  
 2                 *relate to plant in service as of December 31, 2009 as set out in the evidence filed in*  
 3                 *support of the Application and this Amended Application.*
- 4
- 5           6.     *Newfoundland Power proposes that the Board approve continued use of the Energy*  
 6                 *Supply Cost Variance clause beyond 2010, and the Demand Management Incentive*  
 7                 *Account until further Order of the Board as set out in the evidence filed in support of the*  
 8                 *Application and this Amended Application.*
- 9
- 10          7.     *Newfoundland Power proposes that the Board approve an overall average increase in*  
 11                 *current customer rates of 7.2 percent, with effect from January 1, 2010, based upon:*
- 12
- 13                 (a)     *a forecast average rate base for 2010 of \$869,241,000;*
- 14
- 15                 (b)     *a rate of return on average rate base for 2010 of 9.13 percent in a range of 8.95*  
 16                         *percent to 9.31 percent; and*
- 17
- 18                 (c)     *a forecast revenue requirement for 2010 of \$545,917,000 to be recovered from*  
 19                         *electrical rates;*
- 20
- 21                 *as set out in the evidence filed in support of this Amended Application.*
- 22
- 23          8.     *Newfoundland Power proposes that the Board approve rates, tolls and charges effective*  
 24                 *for service provided on and after January 1, 2010, which result in average increases in*  
 25                 *current customer rates by class as follows:*
- 26

<i>Rate Class</i>	<i>Average Increase</i>
<i>Domestic</i>	<i>7.9%</i>
<i>General Service 0-10 kW</i>	<i>5.2%</i>
<i>General Service 10-100 kW (110 kVA)</i>	<i>5.2%</i>
<i>General Service 110-1000 kVA</i>	<i>6.2%</i>
<i>General Service 1000 kVA and Over</i>	<i>7.2%</i>
<i>Street and Area Lighting</i>	<i>7.2%</i>

27                 *as set out in Schedule A to this Amended Application. ”*

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29

30     **WHEREAS** a public hearing was held beginning on October 14, 2009 with final arguments  
 31     heard on November 10, 2009; and

32

33     **WHEREAS** the Board is satisfied, as suggested by the Consumer Advocate and Newfoundland  
 34     Power, that an Order in relation to the Application should be issued as of this date to provide for  
 35     timely implementation of rates for January 1, 2010; and

36

37     **WHEREAS** the Board will issue its Reasons for Decision in respect of this Order separately.

**BOARD ORDER**

**IT IS THEREFORE ORDERED THAT:**

**Rate Base and Range of Return on Rate Base**

- 1. **Newfoundland Power shall calculate and file a revised forecast average rate base and return on rate base for 2010, based on its proposals in the Application, incorporating the determinations set out in this Order, including:**
  - i) **a proportion of regulated common equity in the capital structure not to exceed 45%; and**
  - ii) **a return on regulated common equity of 9.0%.**
- 2. **The allowed range of return on rate base shall be 36 basis points for 2010 and for use in the Automatic Adjustment Formula, unless otherwise ordered by the Board.**

**2010 Test Year Revenue Requirement**

- 3. **Newfoundland Power shall calculate and file a revised forecast total revenue requirement for the 2010 test year based on its proposals in the Application, incorporating the determinations set out in this Order.**

**Automatic Adjustment Formula**

- 4. **Unless the Board orders otherwise the rate of return on rate base for 2011 and 2012 shall be set using the Automatic Adjustment Formula.**
- 5. **Unless the Board orders otherwise Newfoundland Power shall apply no later than November 30<sup>th</sup> in each of 2010 and 2011 for the application of the Automatic Adjustment Formula to the rate of return on rate base and, if required, for a revised Schedule of rates, tolls and charges effective January 1, 2011 and January 1, 2012 respectively.**
- 6. **Unless the Board orders otherwise Newfoundland Power shall file its next general rate application with the Board no later than May 31, 2012 with a 2013 test year.**

Accounting/Regulatory Matters

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2  
3 7. Newfoundland Power shall continue to use the cash method for accounting for  
4 Other Post Employment Benefits costs unless otherwise ordered by the Board.  
5
- 6 8. Newfoundland Power shall file with the Board, no later than June 30, 2010, a  
7 comprehensive proposal for the adoption of the accrual method of accounting for  
8 Other Post Employment Benefits costs as of January 1, 2011, including alternatives  
9 and recommendations in relation to:
  - 10 i) a deferral mechanism to capture annual variances arising from changes in  
11 the discount rate and other assumptions; and
  - 12 ii) the recovery of the transitional balance associated with the adoption of  
13 accrual accounting for Other Post Employment Benefits costs.  
14
- 15 9. Newfoundland Power's proposal to create a Pension Expense Variance Deferral  
16 Account as of January 1, 2010 and as defined in Schedule A is approved.  
17
- 18 10. Newfoundland Power shall create a Hearing Cost Deferral Account to recover over  
19 three years commencing January 1, 2010 hearing costs relating to this Application  
20 in the total amount of \$750,000.  
21
- 22 11. The following deferral accounts are approved for continued use:
  - 23 i) Energy Supply Cost Variance Account;
  - 24 ii) Demand Management Incentive Account; and
  - 25 iii) Conservation Cost Deferral Account.  
26
- 27 12. Newfoundland Power shall file as part of its next general rate application a report  
28 on the performance of the Demand Management Incentive Account, including a  
29 summary of the amounts of transfers and savings and an examination of the  
30 incentive effects of:
  - 31 i) the Demand Management Incentive Account;
  - 32 ii) other existing regulatory mechanisms related to power purchase costs; and
  - 33 iii) possible alternative mechanisms with respect to the effectiveness and  
34 efficiency of the incentive to reduce power purchase costs.  
35
- 36 13. Newfoundland Power's proposal to recover the 2009 conservation programming  
37 costs of approximately \$1.5 million over the remaining four years of the 5-year  
38 Energy Conservation Plan is approved.  
39
- 40 14. Newfoundland Power shall file its next depreciation study relating to plant in service  
41 as of December 31, 2009.  
42
- 43 15. Newfoundland Power, in consultation with the Consumer Advocate, shall file no  
44 later than March 31, 2010 a revised schedule for the ongoing retail rate design  
45 study.

- 1 16. Newfoundland Power, in consultation with the Consumer Advocate, shall file no  
2 later than June 30, 2010 a report with alternatives and recommendations in relation  
3 to the policies for deployment of Newfoundland Power's staff to affiliated and other  
4 companies for emergency response.  
5
- 6 17. Newfoundland Power shall file a monthly update in relation to the transition to  
7 International Financial Reporting Standards, beginning on February 1, 2010 and  
8 continuing until full implementation, replacing the quarterly reporting previously  
9 ordered by the Board.  
10

11  
12 Rates, Rules and Regulations  
13

- 14 18. Newfoundland Power shall file for the approval of the Board revised rates, tolls and  
15 charges effective for service provided on and after January 1, 2010, based on the  
16 proposals in the Application, incorporating the determinations set out in this Order.  
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18  
19 Hearing Costs  
20

- 21 19. Newfoundland Power shall pay the expenses of the Board arising from the  
22 Application, including the expenses of the Consumer Advocate incurred by the  
23 Board.

**Dated** at St. John's, Newfoundland and Labrador this 11<sup>th</sup> day of December 2009.



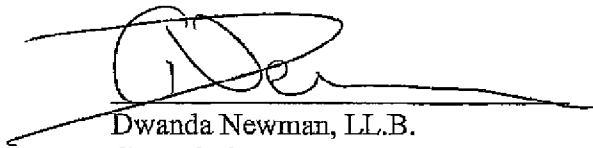
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Andy Wells  
Chair & Chief Executive Officer



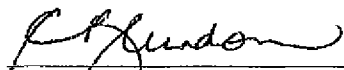
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Darlene Whalen, P.Eng.  
Vice-Chair



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Dwanda Newman, LL.B.  
Commissioner



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Cheryl Blundon  
Board Secretary

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Newfoundland Power Inc.

Pension Expense Variance Deferral Account

**Proposed Definition**

*Pension Expense Variance Deferral Account*

This account shall be charged or credited with the amount by which the annual pension expense computed in accordance with generally accepted accounting principles for any year differs from the annual pension expense approved most recently for the establishment of revenue requirement from rates for a test year.

*Disposition of any Balance in this Account*

Newfoundland Power shall charge or credit any amount in this account to the Rate Stabilization Account as of the 31<sup>st</sup> day of March in the year in which the difference arises.

If there is an application before the Board for rates based on a new test year that is anticipated to be outstanding as of the 31<sup>st</sup> day of March in a year in which the new rates are expected to become effective, then Newfoundland Power shall apply to the Board for determination of the amount to be charged or credited to the account for that year and the timing thereof.