

HAND DELIVERED

November 23, 2006

Board of Commissioners  
of Public Utilities  
P.O. Box 21040  
120 Torbay Road  
St. John's, NL A1A 5B2

Attention: Ms. Cheryl Blundon  
Board Secretary

Ladies & Gentlemen:

**Re: Newfoundland Power's 2007 Amortization and Cost Deferrals Application**

Enclosed are the original and 14 copies of Newfoundland Power's Submission.

An electronic and paper copy will be forwarded directly to the parties listed below.

If you have any questions regarding the enclosed, please contact the undersigned at your convenience.

Yours very truly



Peter Alteen  
Vice President, Regulatory Affairs  
& General Counsel

Enclosures

c. Geoffrey Young  
Newfoundland & Labrador Hydro

Thomas Johnson  
O'Dea Earle Law Offices

Mark Kennedy  
Law Atlantic



Join us in the fight against cancer.

**IN THE MATTER OF** the *Public Utilities Act*, (the "Act"); and

**IN THE MATTER OF** an application by Newfoundland Power Inc. for an order pursuant to Sections 58, 78 and 80 of the Act:

- (a) approving a certain amortization and the deferred recovery of certain costs for 2007;  
and
- (b) approving forecast values for rate base and invested capital for use in the automatic adjustment formula for the calculation of the rate of return on rate base for 2007 pursuant to Order No. P.U. 19 (2003).

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**SUBMISSION  
OF  
NEWFOUNDLAND POWER INC.**

**November 23, 2006**

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1     **1.     OVERVIEW**

2     Newfoundland Power's 2007 Amortization and Cost Deferrals Application (the "Application")  
3     was filed with the Board on September 13, 2006.

4  
5     The primary purpose of the Application is to address three material 2007 costs that are not  
6     reflected in customer rates. The Application seeks an Order, pursuant to Sections 58 and 80 of  
7     the Act, approving for 2007:

- 8         (i)     the amortization of \$2,714,000 of the 2005 Unbilled Revenue as revenue for  
9                 regulatory purposes to offset a like increase in income tax expense attributable to the  
10                Tax Settlement;
- 11        (ii)    the deferred recovery, until a further Order of the Board, of costs totalling \$5,793,000  
12                 to offset a like increase in depreciation expense attributable to the conclusion in 2005  
13                 of a depreciation true-up; and
- 14        (iii)   the deferred recovery, until a further Order of the Board, of the forecast after tax  
15                 replacement energy cost of \$1,147,000 attributable to the refurbishment of the  
16                 Rattling Brook hydro plant (the "Rattling Brook Project").

17  
18     These proposals, if approved by the Board, will affect the calculation of Newfoundland Power's  
19     forecast 2007 rate base and invested capital. The Application seeks an Order, pursuant to  
20     Sections 78 and 80 of the Act, approving a forecast value for rate base of \$785,271,000 and a  
21     forecast value for invested capital of \$787,990,000 to be used in the automatic adjustment  
22     formula for the calculation of Newfoundland Power's 2007 rate of return on rate base.

1 The Board's financial consultant, Grant Thornton LLP ("Grant Thornton") reviewed the  
2 Application and has concluded, in its report, (the "Grant Thornton Report") that the proposals in  
3 the Application were appropriate and the calculations were accurate.

4  
5 The Consumer Advocate has filed a written submission on the Application which raises two  
6 issues. Newfoundland Power's response to the submission of the Consumer Advocate follows.

7  
8 **2. RESPONSE TO CONSUMER ADVOCATE'S SUBMISSION**

9 ***2.1 2007 Income Tax***

10 The Consumer Advocate submits that the Board, in effect, revisit its determination in Order No.  
11 P.U. 40 (2005) authorizing the recognition of \$3,086,000 of the 2005 Unbilled Revenue in 2006  
12 to offset the forecast income tax effects associated with the Tax Settlement. In particular, it is  
13 submitted that the Board should reduce the amount proposed to be recognized in 2007 by the  
14 amount of \$207,000 which represents the difference between actual 2006 income tax effects of  
15 the Tax Settlement and the amount authorized by Order No. P.U. 40 (2005).

16 *Reference: Consumer Advocate's Submission, pages 1-3.*

17  
18 This \$207,000 difference is the result of actual electricity deliveries in December 2005 that were  
19 billed in January 2006 being less than forecast in the 2006 Accounting Policy Application.

20 *Reference: Response to Information Request CA-5.0 NP.*

1 Newfoundland Power is required to pay income tax based upon actual revenues. For regulatory  
2 reporting and forecasting purposes, revenues are based upon *normal* weather conditions.

3 *Reference: Response to Information Request CA-3.0 NP.*

4 *Order No. P.U. 1(1974).*

5

6 In accordance with established regulatory practice, Newfoundland Power uses forecasts of  
7 revenues and costs in its applications to the Board. The Board's reliance on forecasts to assist it  
8 in determining reasonableness of proposals before it is common regulatory practice. The use of  
9 estimates of expenses by the Board is specifically mandated by the Act.

10 *Reference: Response to Information Requests CA-1.0 NP and CA-6.0 NP.*

11 *Section 80 (4), Public Utilities Act.*

12

13 The inherent nature of forecast variance in a prospective regulatory regime has been recognized  
14 by the Newfoundland Court of Appeal in the Stated Case where it was observed "Because the  
15 process is prospective, there is a good possibility that all of the assumptions will not be achieved  
16 in practice".

17 *Reference: Stated Case, Supreme Court of Newfoundland, Court of Appeal, June 15, 1998,*  
18 *page 37.*

19

20 In making its determination in Order No. P.U. 40 (2005), the Board clearly recognized that the  
21 forecast amount of 2005 Unbilled Revenue of \$24.3 million was an approximation. In addition,  
22 in considering the specific recognition of the amount of \$3,086,000 in 2006, the Board referred  
23 to Grant Thornton's opinion that the forecast calculations were appropriate and reasonable.

24 *Reference: Order No. P.U. 40 (2005), page 6, lines 6-7; page 8, lines 9-11; page 13, line 31 to*  
25 *page 14, line 2 and lines 16-17.*

26 *Response to Information Request CA-1.0 NP.*

1 Granting the relief requested by the Consumer Advocate would effectively be an *ex-post facto*  
2 reconciliation of a forecast based Board determination to an actual result. This would be  
3 contrary to the principles of regulatory certainty and predictability and would, in effect, amount  
4 to retroactive regulation.

5  
6 The proposition that the \$207,000 can somehow be offset against actual income tax remittances  
7 over the “three-year recognition period” also violates the general principle of non-retroactivity  
8 applicable to prospective regulation. It would effectively ensure that future costs would not be  
9 recoverable in future rates *as a result of* a retroactive reconciliation of actual results to a previous  
10 forecast supporting a Board determination.

11  
12 Newfoundland Power submits that Order No. P.U. 40 (2005) reflected the Board’s intent to keep  
13 the Company whole with respect to *forecast* 2006 effects of the Tax Settlement. It had that  
14 effect.

15  
16 Given the basis of the Board’s determinations in Order No. P.U. 40 (2005) and the nature of  
17 prospective regulation generally, no justification exists to grant the relief sought by the  
18 Consumer Advocate.

19

## 20 **2.2 2007 Replacement Energy Cost Deferral**

21 The Consumer Advocate submits that the Board, in effect, reduce the recovery of the 2007  
22 replacement energy cost recovery deferral by \$100,000. The submission appears to be based  
23 upon the assumption that Newfoundland Power’s 2007 costs will be (or should be) reduced by  
24 \$100,000 as a result of the Rattling Brook Project.

1 The evidence before the Board with respect to the cost impacts of the Rattling Brook Project  
2 does not support the Consumer Advocate's submission.

3  
4 No increases in forecast 2007 hydro production from other Newfoundland Power hydro plants  
5 can be expected to offset the forecast cost of replacement energy resulting from the Rattling  
6 Brook Project.

7 *Reference: Response to Information Request CA-15.0 NP.*

8  
9 No reduction in forecast 2007 finance costs or depreciation expense can be expected to offset the  
10 cost of replacement energy resulting from the Rattling Brook Project.

11 *Reference: Response to Information Request CA-16.0 NP.*

12  
13 No change in forecast 2007 capitalized overheads can be expected to offset the forecast cost of  
14 replacement energy resulting from the Rattling Brook Project.

15 *Reference: Response to Information Requests CA-20.0 NP and CA-21.0 NP.*

16  
17 No reduction in forecast 2007 hydro plant operating costs can be expected to offset the forecast  
18 cost of replacement energy resulting from the Rattling Brook Project. This is the result of (i) the  
19 manner in which Newfoundland Power operates its 23 hydro plants, (ii) the highly fixed  
20 behaviour of operating costs associated with Newfoundland Power's hydro plants, (iii)  
21 Newfoundland Power's operating cost experience with hydro plant refurbishments in recent  
22 years, and (iv) the 2007 expected operating costs associated with the Rattling Brook hydro plant.

23 *Reference: Response to Information Request CA-16.0 NP.*



1 In this Application, Newfoundland Power seeks deferred recovery of forecast 2007 replacement  
2 energy costs attributable to the Rattling Brook Project. It is undisputed that this cost is not  
3 reflected in current customer rates.

4 *Reference: Prefiled Evidence of Newfoundland Power, page 2 and page 9 et. seq.*

5

6 The amount of the current forecast 2007 replacement energy costs attributable to the Rattling  
7 Brook Project is not in dispute.

8 *Reference: Prefiled Evidence of Newfoundland Power, page 9 et. seq.*

9

10 *Grant Thornton Report, page 5.*

11

12 The submission by the Consumer Advocate that the Board has used productivity allowances as a  
13 means of achieving unspecified cost savings is not relevant to the replacement energy cost  
14 recovery deferral sought in this Application. Firstly, Newfoundland Power is seeking deferred  
15 recovery of a cost (i) the amount of which is not in dispute and, (ii) which is clearly not  
16 recovered in current rates. Secondly, there is *no* evidence to support the Consumer Advocate's  
17 submission that a reduction (or offset) can be expected or is even achievable. In fact, the  
18 evidence before the Board contradicts this.

19

20 Accordingly, acting on the Consumer Advocate's submission would effectively require the  
21 Board to make an arbitrary reduction in the undisputed amount of the forecast cost of  
22 replacement energy attributable to the Rattling Brook Project. No justification for such a course  
23 of action exists.

1 **3. CONCLUSION**

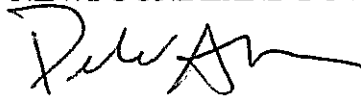
2 Aside from the two matters raised in the Consumer Advocate's submission, which have been  
3 addressed in Section 2 of this Submission, the Application is not in dispute by any party to the  
4 proceedings.

5  
6 Based on the evidence before the Board, Newfoundland Power submits that its proposed  
7 amortization and cost recovery deferrals, as summarized in Section 1 of this Submission, are  
8 appropriate and are necessary in order to provide it with an opportunity to earn a just and  
9 reasonable return in 2007. Pursuant to Section 80 of the Act, these proposals should be approved  
10 in their entirety by the Board.

11  
12 The calculations underlying Newfoundland Power's proposed forecast values for rate base of  
13 \$785,271,000 and invested capital of \$787,990,000 to be used in the automatic adjustment  
14 formula for the calculation of its 2007 rate of return on rate base have been verified by Grant  
15 Thornton. Based on the evidence before the Board, and pursuant to Section 78 of the Act and  
16 Order No. P.U. 19 (2003), Newfoundland Power submits that these proposed amounts should be  
17 approved by the Board.

18  
19 **RESPECTFULLY SUBMITTED** at St. John's, Newfoundland and Labrador, this 23<sup>rd</sup> day of  
20 November, 2006.

21  
22 **NEWFOUNDLAND POWER INC.**

23 

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