

**THE CONSUMER ADVOCATE**

**ACTIVITY REPORT**

**April 1, 2012 to March 31, 2013**

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## Message from the Consumer Advocate:

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I am pleased to present the 2012-13 Activity Report of the Consumer Advocate.

Given that my role as Consumer Advocate encompasses both insurance matters and matters pertaining to the representation of general and domestic electricity consumers of the Province, I shall deal with each separately in this Activity Report.

As the Consumer Advocate, I am accountable for the preparation of this report and the actual results achieved and reported.



Thomas Johnson, B.A., LL.B.  
Consumer Advocate

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## Introduction/Overview

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In accordance with section 117 of the *Public Utilities Act, RSNL 1990, Chapter P-47*, the Lieutenant Governor in Council may appoint a consumer advocate to represent the interests of domestic and general service customers in response to applications from public utilities. In accordance with section 61 of the *Automobile Insurance Act, RSNL 1990, Chapter A-22* the Lieutenant Governor in Council may appoint a consumer advocate for the purposes of a matter before the Board of Commissioners of Public Utilities. Finally, in accordance with section 3.1(8) of the *Insurance Companies Act, RSNL 1990, Chapter I-10*, the Lieutenant Governor in Council may appoint a consumer advocate for the purposes of a review by the Board of Commissioners of Public Utilities. Section 3.1(1) of the *Act* provides that the Lieutenant Governor in Council may, by order, direct the board to conduct a review of any aspect of insurance in the province on the terms and conditions that may be specified.

In relation to electricity matters, effective August 12, 2012 the Lieutenant Governor in Council appointed Tom Johnson as the Consumer Advocate for a one-year term to represent the interests of domestic and general service consumers on terms acceptable to the Minister of Justice. This also included any other appointment the Consumer Advocate may receive to participate in specific hearings before the Public Utilities Board and with the Minister of Justice to determine terms and conditions consistent with the existing practice of requiring the Consumer Advocate to file a budget on specific matters and an annual budget for routine on-going matters. The August 12, 2012 appointment was a renewal of a previous similar appointment made in August of 2011.

In relation to insurance matters, on June 8, 2007 the Lieutenant Governor in Council extended Tom Johnson's appointment as Consumer Advocate. Pursuant to the terms of the extension, specific project assignments for which the Consumer Advocate will be paid will be approved in advance by the Minister of Service NL.

In performing his or her duties, the Consumer Advocate may retain such experts and consultants as may be reasonably required. The costs of the Consumer Advocate are initially borne by the Board of Commissioners of Public Utilities, and subsequently charged to the public utility(ies) or insurer(s) who are making the application or who are involved in the review as the case may be.

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## Mandate

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In accordance with the rules as may be prescribed by the Board for the particular matter before it, the scope of participation may extend in appropriate cases to participating in all pre-hearing procedures, reviewing the application and evidence filed in support thereof, preparing requests for information, retaining and instructing necessary experts, cross-examining witnesses, calling witnesses on behalf of the interests of consumers and making final submissions to the Board.

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## **Vision**

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A regulatory environment in which consumers are well-served and are afforded fair and reasonable treatment in accordance with the legislation and provincial policy pertaining thereto and sound public utility practices, as appropriate.

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## **Highlights and Accomplishments**

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### Insurance

During the past year, the Consumer Advocate continued his role as a member of the Voluntary/Non-Profit Sector Insurance Committee which was established following the Provincial Government's consideration of the Public Utilities Board Insurance Review. The mandate of this Committee, which has received ministerial approval, is to identify risk and insurance issues of relevance in the voluntary/non-profit sectors and to propose solutions to address these issues.

There were no hearings or reviews for which the Consumer Advocate was appointed in the last year.

### Electricity Consumer Representation

The 2012-13 period was very active with regards to the Consumer Advocate's representation of electricity consumers in the province. The following section highlights matters in which the Consumer Advocate was engaged:

(1) Newfoundland Power Inc.'s 2012 Cost of Capital Application

The Consumer Advocate intervened on behalf of general and residential customers in this application filed by Newfoundland Power Inc. on March 30, 2012. This application involved Newfoundland Power's seeking an order of the Board establishing its cost of capital for 2012.

(2) Newfoundland and Labrador Hydro – Proposed Regulatory Treatment of Asset Retirement Obligations

The Consumer Advocate intervened on behalf of general and residential customers in connection with this application. The intervention involved the retention of an expert in depreciation methods and practices and the making of submissions in connection with the matter.

(3) Newfoundland and Labrador Hydro – Depreciation Application

The Consumer Advocate intervened on behalf of general and residential customers in connection with this application which was filed with the Board on December 22, 2011.

The intervention involved the retention of an expert in depreciation methods and practices and an extensive interrogatory process together with a technical conference and settlement conference of the interested parties.

(4) Newfoundland and Labrador Hydro Application re. Supplemental Capital Projects: Cat Arm Road, Stephenville Turbine Rewind and Mary's Harbour

The Consumer Advocate intervened on behalf of general and residential customers in connection with these supplemental capital projects.

(5) Newfoundland and Labrador Hydro Application of 30 June, 2009 concerning the RSP (Rate Stabilization Plan) component of Industrial Customer's Rates

The Consumer Advocate's involvement in this long-standing matter arose as a consequence of the rendering of the judgment of the Newfoundland and Labrador Supreme Court, Court of Appeal in June, 2012 pertaining to the Board's jurisdiction as regards the matters raised in the Application.

(6) Newfoundland Power Inc.'s 2013 Capital Budget Application

The Consumer Advocate represented customers' interests in relation to Newfoundland Power Inc.'s 2013 Capital Budget Application to the Board which was filed on June 28, 2012.

(7) Newfoundland and Labrador Hydro's 2013 Capital Budget Application

The Consumer Advocate represented customers' interests in relation to Newfoundland and Labrador Hydro's 2013 Capital Budget Application to the Board which was filed on August 8, 2012.

(8) Newfoundland Power Inc.'s 2013-14 General Rate Application

The Consumer Advocate intervened on behalf of general and residential customers in the general rate application filed by Newfoundland Power Inc. on September 14, 2012. This general rate application was Newfoundland Power Inc.'s first general rate application since its 2010 General Rate Application filed on May 28, 2009. The application involved a number of regulatory and financial issues and required extensive participation of the Consumer Advocate, the Consumer Advocate's legal counsel as well as experts in the areas of cost of capital, regulatory economics, rate design and depreciation methods and practices. This application involved an extensive interrogatory process through the filing of requests for information, as well as the filing and presentation of expert evidence and testimony on behalf of the Consumer Advocate. It also involved the cross-examination of company witnesses as well as the company's cost of capital experts and depreciation consultant at a public hearing which commenced in January of 2013 and ultimately concluded with written submissions and

oral arguments on February 8, 2013. The Board is expected to issue its Decision and Order in the proceeding in April, 2013.

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## Activities

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### Issue 1: Representation of Consumer Interests

The representation of consumer interests when applications from public utilities are received is largely determined by the nature of the application. Applications may request, for example, a rate increase, a pricing restructuring, or an increase in return on investment for capital expenditure. The development of any response to an application requires that the Consumer Advocate solicit advice from consultants with respect to the information required to make an informed argument. Consultants with an expertise in energy supply, regulatory practice and principles and cost of capital/finance are invaluable when assessing the necessity for changes sought by electrical utilities. In matters of insurance, consultants with expertise in actuarial science and cost of capital/finance are typically required. In the 2013-2014 Annual Report, the Consumer Advocate will report on the same Objective and Indicators as previously outlined in the Consumer Advocate's 2011-14 Activity Plan.

**Objective:** Upon appointment, the Consumer Advocate will have represented the interests of consumers of electrical utilities and insurance companies in the province of Newfoundland and Labrador.

<b>Measure</b>	<b>Consumer Interests represented</b>
<b>Indicators</b>	<b>Results</b>
<p>Obtained evidence for hearings in support of the consumer position at regulatory processes</p>	<p>The Consumer Advocate obtained evidence, as appropriate, in support of the consumers' position in relation to each of the following matters:</p> <ul style="list-style-type: none"> <li>• Newfoundland Power Inc.'s Cost of Capital Application</li> <li>• Newfoundland and Labrador Hydro – Proposed Regulatory Treatment of Asset Retirement Obligations</li> <li>• Newfoundland and Labrador Hydro – Depreciation Application</li> <li>• Newfoundland and Labrador Hydro Application re. Supplemental Capital Projects: Cat Arm Road, Stephenville Turbine Rewind and Mary's Harbour</li> <li>• Newfoundland and Labrador Hydro Application of 30 June, 2009 concerning the RSP (Rate Stabilization Plan) component of Industrial Customers' Rates</li> <li>• Newfoundland Power Inc.'s 2013 Capital Budget Application</li> <li>• Newfoundland and Labrador Hydro's 2013 Capital Budget Application</li> <li>• Newfoundland Power Inc.'s 2013-14 General Rate Application</li> </ul>



<p>Attended pre-hearing conferences and meetings and public hearings held by the Board of Commissioners of Public Utilities</p>	<p>The Consumer Advocate attended pre-hearing conferences, meetings and public hearings, all as applicable, in relation to: Newfoundland and Labrador Hydro's Depreciation Application and Newfoundland Power Inc.'s 2012 Cost of Capital Application and its General Rate Application.</p>
<p>Prepared and delivered submissions as directed by the Board of Commissioners of Public Utilities to represent the interests of consumers.</p>	<p>The Consumer Advocate made submissions to the Board of Commissioners of Public Utilities in relation to:</p> <ul style="list-style-type: none"> <li>• Newfoundland Power Inc.'s Cost of Capital Application</li> <li>• Newfoundland and Labrador Hydro – Proposed Regulatory Treatment of Asset Retirement Obligations</li> <li>• Newfoundland and Labrador Hydro – Depreciation Application</li> <li>• Newfoundland and Labrador Hydro Application re. Supplemental Capital Projects: Cat Arm Road, Stephenville Turbine Rewind and Mary's Harbour</li> <li>• Newfoundland and Labrador Hydro Application of 30 June, 2009 concerning the RSP (Rate Stabilization Plan) component of Industrial Customers' Rates</li> <li>• Newfoundland Power Inc.'s 2013 Capital Budget Application</li> <li>• Newfoundland and Labrador Hydro's 2013 Capital Budget Application</li> <li>• Newfoundland Power Inc.'s 2013-14 General Rate Application</li> </ul>

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## Opportunities and Challenges Ahead

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The Consumer Advocate expects that Newfoundland and Labrador Hydro will file a General Rate Application in 2013. The General Rate Application will be Newfoundland and Labrador Hydro's first General Rate Application since 2006. Accordingly, it is expected to be a rather complex application. The General Rate Application will be in addition to the normal annual matters such as capital budget applications that are filed by the utilities.

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## Financial Statements

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Upon appointment as Consumer Advocate, the Consumer Advocate prepares a budget for the approval of the Minister of Justice in matters pertaining to electricity. For matters pertaining to insurance, the Minister of Service NL has budget approval authority. Once the budget has been approved, the Consumer Advocate, in matters of electricity,



renders detailed statements of account to the Public Utilities Board which pays the account. For matters of insurance involving a public hearing or PUB involvement, the same process is followed. However, on occasion the Consumer Advocate will be appointed to intervene or participate in a non-PUB insurance related matter, in which case Service NL both approves the budget and pays the account. Separate audited financial statements are not required of the Consumer Advocate. Expenses paid through the PUB are included as a separate line item in its budget, which is audited by a private auditor. Expenses paid through Service NL are included in the professional services section of its budget and audited financial statements are a requirement at the government level and are made public through the public accounts process.

As the Consumer Advocate's role encompasses both insurance matters and matters pertaining to the representation of general and domestic electricity consumers of the province, it is appropriate to treat each separately in this section.

### **Insurance**

Nil

### **Electricity Consumer Representation**

#### 1. Newfoundland Power Inc.'s Cost of Capital Application

*Invoice dated June 30, 2012 (for services rendered from March 30, 2012 to June 30, 2012)*

(i)	Professional Fees of the Consumer Advocate	\$50,250.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$16,500.00
(iii)	Disbursements (including experts)	\$62,611.45
(iv)	HST (i), (ii) & (iii)	\$16,816.99
	Total	\$146,178.44

#### 2. Newfoundland and Labrador Hydro – Proposed Regulatory Treatment of Asset Retirement Obligations

*Invoice dated November 16, 2012 for disbursements only (expert)*

(i)	Expert Disbursement	\$4,643.96
(ii)	HST	\$603.71
	Total	\$5,247.67

3. Newfoundland and Labrador Hydro – Depreciation Application

*Invoice dated November 16, 2012 for disbursements only (expert)*

(i)	Expert Disbursement	\$48,529.41
(ii)	Expert's Expenses (HST Exempt)	\$2,698.35
(iii)	HST on (i)	\$6,308.82
	Total	\$57,536.58

4. Newfoundland and Labrador Hydro Application re Supplemental Capital Projects:  
Cat Arm Road, Stephenville Turbine Rewind, Mary's Harbour

*Invoice dated November 22, 2012 (for services rendered from July 23, 2012 to November 22, 2012)*

(i)	Professional Fees of the Consumer Advocate	\$2,650.00
(ii)	HST (i)	\$344.50
	Total	\$2,994.50

5. Newfoundland and Labrador Hydro Application re Proposed Regulatory  
Treatment of Asset Retirement Obligations

*Invoice dated November 22, 2012 (for services rendered from June 5, 2012 to November 22, 2012)*

(i)	Professional Fees of the Consumer Advocate	\$5,360.00
(ii)	Disbursements	\$62.75
(iii)	HST (i) & (ii)	\$704.96
	Total	\$6,127.71

6. Newfoundland and Labrador Hydro Application of 30 June 09 – RSP Component  
of IC's Rates

*Invoice dated November 22, 2012 (for services rendered from June 19, 2012 to November 22, 2012)*

(i)	Professional Fees of the Consumer Advocate	\$4,020.00
(ii)	Disbursements (Experts)	\$4,485.00
(iii)	HST (i) & (ii)	\$1,105.65
	Total	\$9,610.65

7. Newfoundland and Labrador Hydro – Depreciation Application

*Invoice dated November 22, 2012 (for services rendered from December 28, 2011 to November 22, 2012)*

(i)	Professional Fees of the Consumer Advocate	\$40,690.00
(ii)	Disbursements	\$1,433.25
(iii)	Tax Exempt Disbursements	\$72.00
(iii)	HST (i) & (ii)	\$5,476.02
	Total	\$47,671.27

8. Newfoundland Power Inc.'s 2013 Capital Budget Application

*Invoice dated November 22, 2012 (for services rendered from June 28, 2012 to November 22, 2012)*

(i)	Professional Fees of the Consumer Advocate	\$14,300.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$8,542.50
(iii)	Disbursements	\$44.80
(iv)	HST (i), (ii) & (iii)	\$2,975.35
	Total	\$25,862.65

9. Newfoundland Power Inc.'s September 16/11 Cost Recovery Deferral Application

*Invoice dated November 26, 2012 for disbursements only (expert)*

(i)	Expert Disbursement	\$190.82
(ii)	HST	\$24.81
	Total	\$215.63

10. Newfoundland and Labrador Hydro 2013 Capital Budget Application

*Invoice dated December 21, 2012 (for services rendered from August 10, 2012 to December 19, 2012)*

(i)	Professional Fees of the Consumer Advocate	\$28,350.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$16,230.00
(iii)	Disbursements	\$156.84
(iv)	HST (i), (ii) & (iii)	\$5,815.79
	Total	\$50,552.63

11. Newfoundland Power Inc.'s General Rate Application

*Invoice dated December 31, 2012 (for services rendered from August 29, 2012 to October 31, 2012)*

(i)	Professional Fees of the Consumer Advocate	\$53,880.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$21,262.50
(iii)	Disbursements	\$1,603.45
(iv)	HST (i), (ii) & (iii)	\$9,976.97
	Total	\$86,722.72

12. Newfoundland Power Inc.'s General Rate Application

*Invoice dated February 28, 2013 (for services rendered from November 1, 2012 to February 28, 2013)*

(i)	Professional Fees of the Consumer Advocate	\$181,920.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$114,868.50
(iii)	Disbursements (including experts)	\$180,915.68
(iv)	HST (i), (ii) & (iii)	\$62,101.55
	Total	\$539,987.44