
The Consumer Advocate

Annual Report 2014-15

Message from the Consumer Advocate

I am pleased to present the 2014-15 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 actual results reported.

A handwritten signature in blue ink, appearing to read 'T. Johnson', with a stylized flourish extending to the right.

Thomas Johnson, Q.C.
Consumer Advocate

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Overview and Mandate

In accordance with section 117 of the *Public Utilities Act*, 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*, 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*, 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 *Insurance Companies 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 2013, the Lieutenant-Governor in Council appointed Thomas 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 and Public Safety. The August 2013 appointment was a renewal of a previous appointment made in August 2012. The new appointment 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 and Public Safety, 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.

In relation to insurance matters, on June 8, 2007 the Lieutenant-Governor in Council extended Thomas 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 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.

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.

Vision

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.

Highlights and Accomplishments

Insurance:

The Consumer Advocate was appointed to intervene on behalf of insureds in Facility Association's March 6, 2014 application to the Public Utilities Board. Facility Association's Application sought approval of increased rates for Taxis and Limousines. The Application proposed rate increases for Third Party Liability, Accident Benefits and Uninsured Automobile coverages to be effective no earlier than August 1, 2014 as follows:

Facility Association Proposed Taxi Rate Increases

	Third Party Liability	Accident Benefits	Uninsured Automobile
Proposed per cent Increase	+50.0%	+294.3%	+329.3%
Proposed Average \$ Increase	+\$1,417	+\$235	+\$46

Facility estimated that its Application proposals, if approved, would result in an increase of 54.1 per cent in its overall rate level for all coverages combined, including Physical Damage. The Application also proposed a number of additional changes, including increased limits for Third Party Liability and Physical Damage coverages, elimination of certain discounts, rating amendments and other rule changes.

Following pre-hearing steps including a request for information phase, the hearing of the Application commenced on November 5, 2014 and was held over a five-day period. Written Submissions were filed by the Consumer Advocate and Facility Association in January, 2015. The Board issued its Decision and Order No. A.I. 11 (2015) on April 2, 2015 in which it denied the Application and ordered Facility Association to pay all costs of the Board and costs of the Consumer Advocate. The Board's Order gave leave to Facility Association to reverse its rate proposal to reflect the findings of the Board in its Order. On April 22, 2015 Facility Association applied for a 19.3 per cent overall rate increase in accordance with the Board's findings in Order No. A.I. 11 (2015). This proposed rate increase was approved in Order No. A.I. 15 (2015).

Electricity Consumer Representation:

The 2014-15 period was very active with regards to the Consumer Advocate's representation of electricity consumers in the province. The following briefly highlights matters in which the Consumer Advocate was engaged:

1. Newfoundland and Labrador Hydro's Amended General Rate Application

The Consumer Advocate intervened on behalf of general and residential customers in this Application filed November 10, 2014. The matter is scheduled to proceed to hearing in September of 2015.

2. Rate Stabilization Plan Surplus – Appeal

The Consumer Advocate represented general and residential customers in respect of an appeal to the Supreme Court of Newfoundland and Labrador Court of Appeal in relation to a Public Utilities Board decision dated April 9, 2014. In its decision the Board had ordered that a refund of \$112.6 million should be distributed to all ratepayers in Newfoundland and Labrador, including to customers who had not paid into the Rate Stabilization Plan (RSP). The Consumer Advocate and Newfoundland and Labrador Hydro appealed this order and submitted in the appeal which was heard on February 19, 2015 that the refund shall not go to those customers who did not contribute to the RSP Surplus. The Court of Appeal Judge held that the Public Utilities Board's decision was unreasonable and quashed the decision. The Court of Appeal held that the refund in the form of a rebate is to be made to Newfoundland Power's customer and to Newfoundland and Labrador Hydro's customers on the Island Interconnected System. For other matters related to the refund, the matter was referred back to the Board for its consideration.

3. Investigation and Hearing into Supply Issues and Power Outages

The Consumer Advocate's participation continued in the Investigation and Hearing on behalf of general and residential customers in the wake of the rotating power outages and supply disruptions on the Island Interconnected System over the period January 2 – 8, 2014. The Consumer Advocate attended at the hearing before the Board on March 30, 2015 and subsequently made final submissions to the Board on Phase I of the Investigation and Hearing. The Consumer Advocate's participation continues into Phase II matters concerning the reliability of the Island Interconnected System following the interconnection.

4. Newfoundland Power Inc.'s 2015 Capital Budget Application

The Consumer Advocate represented consumers' interests in relation to Newfoundland Power Inc.'s Annual Capital Budget Application filed in June of 2014.

5. Newfoundland and Labrador Hydro's 2015 Capital Budget Application

The Consumer Advocate represented consumers' interests in relation to Newfoundland and Labrador Hydro's Annual Capital Budget Application filed in August of 2014.

Report on Performance

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. Given that the role of the Consumer Advocate is to act as intervenor on matters for which he is appointed which may come before the Board, it is not possible to forecast the particular matters which may involve the Consumer Advocate's participation over the period of this Activity Plan. 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 experts in actuarial science and cost of capital/finance are typically required. The focus of the Consumer Advocate will remain consistent over the next two years. The objective and associated measure and indicators will be reported on again in 2015-16 and 2016-17.

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.

Measure: Consumer Interests represented

Indicators	Results
Obtained evidence for hearings in support of the consumer position at regulatory processes	The Consumer Advocate obtained evidence, as appropriate, in support of the consumers' position in relation to each of the following matters: <ul style="list-style-type: none">• Facility Association Inc.'s March 6, 2014 automobile insurance rate Application;• Newfoundland and Labrador Hydro's Amended General Rate Application;• Rate Stabilization Plan Surplus – Appeal

	<ul style="list-style-type: none"> • Investigation and Hearing into Supply Issues and Power Outages; • Newfoundland Power Inc.'s 2015 Capital Budget Application; and • Newfoundland and Labrador Hydro's 2015 Capital Budget Application. <p>In obtaining evidence, the Consumer Advocate solicits advice from consultants with an expertise in energy supply, regulator practice and principles and cost of capital/finance for changes sought by electrical utilities. In matters of insurance, consultants with expertise in actuarial science and cost of capital/finance are consulted.</p>
<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:</p> <ul style="list-style-type: none"> • the Facility Association Inc. Auto Insurance Application; • Newfoundland and Labrador Hydro's Amended General Rate Application; • Rate Stabilization Plan Surplus Appeal; • Investigation and Hearing into Supply Issues and Power Outages; • Newfoundland Power Inc.'s 2015 Capital Budget Application; and • Newfoundland and Labrador Hydro's 2015 Capital Budget Application.
<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"> • Facility Association Inc.'s March 6, 2014 Automobile Insurance Rate Application; • Newfoundland and Labrador Hydro's Amended General Rate Application; • Rate Stabilization Plan Surplus – Appeal; • Investigation and Hearing into Supply Issues and Power Outages; • Newfoundland Power Inc.'s 2015 Capital Budget Application; and • Newfoundland and Labrador Hydro's 2015 Capital Budget Application.

Opportunities and Challenges Ahead

In addition to the normal annual matters such as capital budgets by utilities, the Consumer Advocate anticipates extensive work will be required to promote the interests of consumers with regard to two extremely complex matters; the Amended General Rate Application filed by Newfoundland and Labrador Hydro in November, 2014, and the ongoing investigation and hearing into supply issues and power outages on the Island Interconnected System.

Financial Statements

Upon appointment, the Consumer Advocate prepares a budget for the approval of the Minister of Justice and Public Safety 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.

Electricity Consumer Representation

1. Newfoundland Power Application of May 1, 2013
Pension Expense Variance Deferral Account (PEVDA) and OPEBs Cost
Variance Deferral Account (OPEVDA)

Invoice dated March 31, 2014 (for services rendered from May 2, 2013 to May 11, 2013)

(i)	Professional Fees of the Consumer Advocate	\$1,870.00
(ii)	Disbursements	\$14.25
(iii)	HST (i) & (ii)	\$244.95
	Total	\$2,129.20

2. Newfoundland and Labrador Hydro Application – Installation of an Additional 230 KV Transformer at the Oxen Pond Thermal Station

Invoice dated March 31, 2014 (for services rendered from March 28, 2013 to April 29, 2013)

(i)	Professional Fees of the Consumer Advocate	\$4,400.00
(i)	Disbursements	\$38.00
(iii)	HST (i) & (ii)	\$576.94

3. Newfoundland Power Application of December 9, 2013 for approval of capital expenditures supplied to Newfoundland Power Inc.'s 2014 Capital Budget re Bell Island Submarine Cable

Invoice dated March 31, 2014 (for services rendered from December 9, 2013 to December 20, 2013)

(i)	Professional Fees of the Consumer Advocate	\$2,880.00
(ii)	HST (i)	\$374.40

4. Application of Newfoundland and Labrador Hydro dated February 20, 2013 for Approval of Capital Project to Refurbish the Marine Terminal at the Holyrood Thermal Generating Station

Invoice dated April 24, 2014 (for services rendered from February 21, 2013 to April 11, 2013)

(i)	Professional Fees of the Consumer Advocate	\$3,170.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$1,192.50
(iii)	Disbursements	\$70.42
(iv)	HST (i), (ii) & (iii)	\$576.28
	Total	\$5,009.20

5. Newfoundland and Labrador Hydro Application for Service Agreement – Praxair Canada Inc.

Invoice dated March 31, 2014 (for services rendered from March 6, 2013 to June 12, 2013)

(i)	Professional Fees of the Consumer Advocate	\$4,270.00
(ii)	Disbursements (including experts)	\$3,058.00
(iii)	HST (i) & (ii)	\$952.64

Total	\$8,280.64
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6. Newfoundland Power Application for Approval to Issue Series AN First Mortgage Bonds

Invoice dated March 31, 2014 (for services rendered from October 11, 2013 to October 23, 2013)

(i) Professional Fees of the Consumer Advocate	\$1,730.00
(ii) Disbursements (including experts)	\$1,064.25
(iii) HST (i) & (ii)	\$363.25
Total	\$3,157.50

7. Newfoundland and Labrador Hydro Application for Approval of Replacement of the Hardwood Gas Turbine Alternator

Invoice dated March 31, 2014 (for services rendered from April 25, 2013 to May 16, 2013)

(i) Professional Fees of the Consumer Advocate	\$2,200.00
(ii) Disbursements	\$19.00
(iii) HST (i) & (ii)	\$288.47
Total	\$2,507.47

8. Newfoundland and Labrador Hydro General Rate Application

Invoice dated June 30, 2014 (for services rendered from December 1, 2013 to June 30, 2014)

(i) Professional Fees of the Consumer Advocate	\$136,280.00
(ii) Professional Fees of Legal Counsel to the Consumer Advocate	\$44,625.00
(iii) Disbursements (including experts)	\$55,121.26
(iv) HST (i), (ii) & (iii)	\$30,683.41
Total	\$266,709.67

9. Recent Power Outages on the Island Interconnected System

Invoice dated July 21, 2014 (for disbursements only)

(i)	Disbursements (including experts)	\$16,534.19
(ii)	HST (i)	\$2,149.44
	Total	\$18,683.63

10. NLH Application – Upgrade Transmission Line Corridor

Invoice dated August 8, 2014 (for disbursements only)

(i)	Disbursements (including experts)	\$2,062.50
(ii)	HST (i)	\$268.13
	Total	\$2,330.63

11. Newfoundland Power – 2015 Capital Budget Application

Invoice dated December 31, 2014 (for services rendered from June 27, 2014 to October 9, 2014)

(i)	Professional Fees of the Consumer Advocate	\$15,520.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$8,722.50
(iii)	Disbursements (including experts)	\$3,012.10
(iv)	HST (i), (ii), & (iii)	\$3,543.10
	Total	\$30,797.70

12. Newfoundland and Labrador Hydro – 2015 Capital Budget Application

Invoice dated December 31, 2014 (for services rendered from August 3, 2014 to December 3, 2014)

(i)	Professional Fees of the Consumer Advocate	\$24,960.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$16,800.00
(iii)	Disbursements	\$156.00
(iv)	HST (i), (ii) & (iii)	\$5,449.09
	Total	\$47,365.08

13. Appeal of Order No. P.U. 9 (2014)

Invoice dated February 28, 2015 (for services rendered from April 14, 2014 to February 19, 2015)

(i)	Professional Fees of the Consumer Advocate	\$43,400.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate)	\$13,185.00
(iii)	Disbursements	\$289.60
(iv)	HST Exempt Disbursements	\$150.00
(v)	HST (i), (ii), & (iii)	\$7,393.70
	Total	\$64,418.30

Insurance Consumer Representation

14. Facility Association Application

Invoice dated December 31, 2014 (for services rendered from April 16, 2014 to December 29, 2014)

(i)	Professional Fees of the Consumer Advocate	\$43,620.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$26,422.50
(iii)	Disbursements (including experts)	\$85,298.47
(iv)	HST (i), (ii) & (iii)	\$20,194.33
	Total	\$175,535.30

15. Facility Association Application

Invoice dated February 28, 2015 (for services rendered from January 2, 2015 to January 19, 2015)

(i)	Professional Fees of the Consumer Advocate	\$9,550.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$1,200.00
(iii)	Disbursements	\$50.60
(iv)	HST (i), (ii), & (iii)	\$1,404.08
	Total	\$12,204.68