
The Consumer Advocate

Annual Report 2015-16

Message from the Consumer Advocate

In keeping with the requirements of a Category 3 entity under the *Transparency and Accountability Act*, I am pleased to present the 2015-16 Annual 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 Annual Report.

As the Consumer Advocate, I am accountable for the actual results reported.

A handwritten signature in blue ink, appearing to read 'Thomas Johnson', with a long, sweeping 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 2015, 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 2015 appointment was a renewal of a previous appointment made in August 2014. 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:

There were no insurance matters for which the Consumer Advocate was appointed to intervene on behalf of insureds in this reporting period.

Electricity Consumer Representation:

The 2015-16 period was very active with regards to the Consumer Advocate's representation of electricity consumers in the province. The following briefly highlights the principal 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 matter. The Application was filed November 10, 2014 and proceeded to hearing on September 9, 2015 following pre-hearing processes established by the Public Utilities Board. The hearing continued for over 40 days, culminating in oral arguments following the filing of written briefs. Oral arguments were heard on January 25, 2015. The hearing involved Newfoundland and Labrador Hydro's rate application, as well as an examination into the prudence of certain decisions and actions by Newfoundland and Labrador Hydro related to certain projects and operating expenditures for which Newfoundland and Labrador Hydro was seeking cost recovery from customers.

2. Newfoundland Power Inc.'s 2016-2017 General Rate Application

The Consumer Advocate intervened on behalf of general and residential customers in this matter. This Application was filed on October 15, 2015 and sought approval of, among other things, an overall average increase in current electricity rates of 3.1% as of July 1, 2016. Following pre-hearing processes, including the filing of information requests, replies and expert reports, the Application proceeded to hearing on March 29, 2016.

3. Investigation and Hearing into Supply Issues and Power Outages

In 2015-16, 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 has made final submissions to the Board on Phase I of the Investigation and Hearing; the Board has not filed its report on Phase I to date. The Consumer Advocate's participation continued into Phase II matters concerning the reliability of the Island Interconnected System following the interconnection.

4. Newfoundland Power Inc.'s 2016 Capital Budget Application

The Consumer Advocate represented consumers' interests in relation to Newfoundland Power Inc.'s Capital Budget Application filed in June, 2015.

5. Newfoundland and Labrador Hydro's 2016 Capital Budget Application

The Consumer Advocate represented consumers' interests in relation to Newfoundland and Labrador Hydro's Annual Capital Budget Application filed in July, 2015.

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 the current 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 constant over the next year. The objective and associated measure and indicators will be reported on again in 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
<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"> • Newfoundland and Labrador Hydro's Amended General Rate Application; • Newfoundland Power Inc.'s 2016-2017 General Rate Application; • Investigation and Hearing into Supply Issues and Power Outages; • Newfoundland and Labrador Hydro's 2016 Capital Budget Application; and • Newfoundland Power Inc.'s 2016 Capital Budget Application.
<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"> • Newfoundland and Labrador Hydro's Amended General Rate Application; • Newfoundland Power Inc.'s 2016-2017 General Rate Application; • Investigation and Hearing into Supply Issues and Power Outages; • Newfoundland and Labrador Hydro's 2016 Capital Budget Application; and • Newfoundland Power Inc.'s 2016 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"> • Newfoundland and Labrador Hydro's Amended General Rate Application; • Newfoundland Power Inc.'s 2016-2017 General Rate Application; • Investigation and Hearing into Supply Issues and Power Outages; • Newfoundland and Labrador Hydro's 2016 Capital Budget Application; and • Newfoundland Power Inc.'s 2016 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 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-Public Utilities Board 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 Public Utilities Board 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; audited financial statements are a requirement at the government level and are made public through the public accounts process.

Electricity Consumer Representation

1. Newfoundland and Labrador Hydro Application – Upgrade Transmission Line Corridor

Invoice dated May 30, 2015 (for services rendered from May 3, 2013 to December 12, 2014)

(i)	Professional Fees of the Consumer Advocate	\$8,080.00
(i)	Professional Fees of Legal Counsel to the Consumer Advocate	\$2,715.00
(iii)	Disbursements (including experts)	\$8,363.10
(iv)	HST (i), (ii) & (iii)	\$2,490.55
	Total	\$21,648.65

2. Recent Power Outages on the Island Interconnected System

Invoice dated June 30, 2015 (for services rendered from January 6, 2014 to May 30, 2015)

(i)	Professional Fees of the Consumer Advocate	\$104,140.00
(i)	Professional Fees of Legal Counsel to the Consumer Advocate	\$42,442.50
(iii)	Disbursements (including experts)	\$38,601.00
(iv)	HST (i), (ii) & (iii)	\$24,073.86
	Total	\$209,257.36

3. 2016 Deferred Cost Recovery Application

Invoice dated July 20, 2015 (for services rendered from April 15, 2015 to July 15, 2015)

(i)	Professional Fees of the Consumer Advocate	\$10,170.00
(ii)	Disbursements (including experts)	\$10,875.00
(ii)	HST (i) & (ii)	\$2,735.85
	Total	\$23,780.85

4. Recent Power Outages on the Island Interconnected System

Invoice dated September 16, 2015 (for disbursements only)

(i)	Disbursements (experts)	\$12,696.00
(ii)	HST (i)	\$1,650.48
	Total	\$14,346.48

5. Newfoundland and Labrador Hydro General Rate Application

Invoice dated October 31, 2015 (for services rendered from July 1, 2014 to October 31, 2015)

(i)	Professional Fees of the Consumer Advocate	\$211,370.00
(i)	Professional Fees of Legal Counsel to the Consumer Advocate	\$98,175.00
(iii)	Disbursements (including experts)	\$118,227.22
(iv)	Non-Taxable Disbursements	\$8,696.00
(iv)	HST (i), (ii) & (iii)	\$55,610.39
	Total	\$492,078.61

6. Newfoundland and Labrador Hydro – General Rate Application

Invoice dated December 31, 2015 (for services rendered from November 1, 2015 to December 29, 2015)

(i)	Professional Fees of the Consumer Advocate	\$106,500.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$73,212.50
(iii)	Disbursements (including experts)	\$25,430.90
(iv)	HST (i), (ii), & (iii)	\$26,668.65
	Total	\$231,812.05