
THE CONSUMER ADVOCATE

Annual Report April 1, 2019 – March 31, 2020

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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 2019-2020 Annual Report of the Consumer Advocate.

The focus of efforts at the Public Utilities Board (“the PUB”) has been to keep electricity rates stable and affordable. This vigilance was required due to anticipated rate increases after the Muskrat Falls Project comes on stream. Rate mitigation efforts continue.

Consumers were also represented before the Commission of Inquiry Respecting the Muskrat Falls project which is now concluded.

Herein is my report. As the Consumer Advocate, I am responsible for the actual results reported.

A handwritten signature in blue ink that reads "Dennis Browne". The signature is written in a cursive style with a horizontal line underneath the name.

Dennis Browne, QC
Consumer Advocate

Overview

In accordance with section 117 of the **Public Utilities Act**, (the “PUB Act”) the Lieutenant-Governor in Council may appoint a consumer advocate to represent the interests of domestic and general service electricity customers in response to applications from public utilities.

The Consumer Advocate represents electricity consumers in applications or hearings before the Public Utilities Board, (the "PUB"). Section 70 requires that public utilities submit any proposed rate changes to the PUB for approval. In accordance with Section 41 of the PUB Act, the PUB receives capital budget applications from public utilities annually. As capital budget and rate applications of utilities have a direct bearing on electricity rates which consumers will eventually pay, the Consumer Advocate is tasked to engage with expert consultants in energy supply, regulatory practice, and capital/finance costs when assessing applications brought before the PUB by utilities. The Consumer Advocate also represents electricity consumers in other general matters arising outside application or hearing processes. The PUB includes the Consumer Advocate on most correspondence from utilities, including many matters that do not result in an application or hearing.

Upon appointment, the Consumer Advocate prepares a budget for approval by the Minister of Justice and Public Safety in matters pertaining to electricity. After the budget has been approved, the Consumer Advocate, in matters of electricity, renders detailed statements of account to the PUB, which pays the account.

The Consumer Advocate is appointed under paragraph 9(2) of the **Independent Appointments Commission Act**. The current Consumer Advocate, Dennis Browne, QC, originally was appointed on October 11, 2016 through the Independent Appointments Commission and subsequently appointed for each year after. Under the terms of the appointment, the Consumer Advocate represents the interests of domestic and general service customers on terms acceptable to the Minister of Justice and Public Safety, and in addition to any other appointment the Consumer Advocate may receive, to participate in specific hearings before the PUB.

In addition, the Consumer Advocate also represented consumers during a review of the **Automobile Insurance Act** which was conducted by the PUB and initiated in 2017 by the then Department of Service NL. This review concluded in January 2019. During the course of review, the Consumer Advocate worked to represent the interests of automobile insurance consumers. The review culminated in changes to the **Automobile Insurance Act** intended to address issues in the PUB’s report. As the review concluded early in 2019, there was no further related activities during April 1, 2019 to March 31, 2020.

Highlights and Accomplishments

For the period April 1, 2019 to March 31, 2020, consumers’ interests were represented in applications before the Public Utilities Board. This representation included a multitude of utility-based applications and a reference brought before the PUB by Government. Consumer intervention was therefore required.

Specifically, consumers were represented in hearings pertaining to Rate Mitigation options and impacts resulting from the Muskrat Falls project. In its report to Government, the Public Utilities Board made

recommendations after considering the evidence and positions of the parties including those of the Consumer Advocate.

Also, during this period the Commission of Inquiry Respecting the Muskrat Falls Project concluded and the Commissioner's Report Muskrat Falls: A Misguided Project was submitted to Government on March 5, 2020 and made public. Consumers were represented throughout the hearings because island ratepayers were required to pay for the Muskrat Falls Project. The Commissioner accepted the recommendations for a study of Performance-Based Regulation and for a review of the Public Utilities Board mandate and enabling legislation. Specific work included:

- Attended pre-hearing conferences and meetings and public hearings pertaining to the Commission of Inquiry Respecting Muskrat Falls.
- Retained counsel as directed by the Commissioner who represented rate payers during 140 days of hearings and planning cross examinations of witnesses.
- The Consumer Advocate attended pre-hearing conferences and meetings and read documents on file pertaining to the work of the Commission.

The Consumer Advocate prepared and delivered submissions to counsel during various sessions of the Commission of Inquiry Respecting the Muskrat Falls Project. In addition, the Consumer Advocate together with counsel prepared recommendations to the Commissioner, some of which were included in the Commissioner's Final Report.

Also, during this period, the Consumer Advocate recommended a Review of the 2007 Capital Budget Guidelines. This Review is in progress and new Capital Budget Guidelines should be implemented over the coming months.

Report on Performance

The representation of consumer interests when applications from utilities are received by the Public Utilities Board is determined by the nature of the application. Given that the role of the Consumer Advocate is to act as intervenor on appointment, it is not possible to forecast particular applications which may involve the Consumer Advocate's participation over the reported period. PUB utility Applicants may request, for example, a rate increase, a price restructuring, or an increase in return on investment for capital expenditure. There may be subsequent appointments resulting.

The development of any response to a PUB application requires that the Consumer Advocate solicit advice from consultants with respect to the information required to make an informed representation. Consultants with an expertise in energy supply, regulatory practice and principles and cost of capital/finance are invaluable when assessing PUB applications from utilities.

The most significant priority for the Consumer Advocate is to work with consumers, utilities, industrial customers, the PUB and Government to address the cost of energy resulting from the Muskrat Falls Project. The objective has been to alleviate the financial burden on consumers which may result from

this project. The Consumer Advocate worked on behalf of consumers to keep electricity affordable. The focus of the Consumer Advocate was consistent over the three years of the 2017-2020 Activity Plan.

Issue 1: Representation of Consumer Interests in Energy Matters

Objective: By March 31, 2020, upon appointment, the Consumer Advocate will have represented the interests of consumers of electricity in the Province of Newfoundland and Labrador.

Indicators	Actual Results
<p>Represented consumers at regulatory processes.</p>	<p>The Consumer Advocate represented consumers at Rate Mitigation Options and Impacts Hearing.</p> <p>Specific work included:</p> <ul style="list-style-type: none"> • Retained experts in relation to Rate Mitigation Options and Impacts. • Reviewed the Liberty Consulting Group and Energy Economics’ Reporting. Researched options and studied briefs on Phase Two of the Muskrat Falls Project Potential Rate Mitigation Options.
<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 and meetings and public hearings pertaining to Rate Mitigation Options and Impacts.</p> <p>Specific work included:</p> <ul style="list-style-type: none"> • Reviewed confidential reports • Attended Hearings • Attended various meetings • Attended technical conferences • Examined expert witnesses • Attended public presentations
<p>Prepared and delivered submissions to the Public Utilities Board.</p>	<p>Attended conferences re cost of service review and attended the settlement conferences and negotiations re cost of service review and reaching settlement of outstanding matters with interveners. The Consumer Advocate prepared and delivered submissions to the Public Utilities Board pertaining to Rate Mitigation Options and Impacts and final submissions.</p>

	<p>Specific work included:</p> <ul style="list-style-type: none"> • Drafting final submissions for the PUB on Rate Mitigation options. • Consultations with experts in reference to final submissions of other parties.
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Issue 2: Representation of Consumers During Automobile Insurance Matters and Insurance Company Reviews as Carried out by the Board of Commissioners of Public Utilities.

Objective: By March 31, 2020, upon appointment, the Consumer Advocate will represent the interests of consumers in insurance matters coming before the Board of Commissioners of Public Utilities.

Indicators	Actual Results
Represented consumers at regulatory processes.	The PUB conducted a review of automobile insurance in Newfoundland and Labrador which concluded in January 2019. During the review, the Consumer Advocate worked to represent the interests of automobile insurance consumers. The review culminated in changes to the Automobile Insurance Act intended to help stabilize insurance rates while enhancing consumer protection. As the insurance review was concluded, there were no insurance matters before the Board of Commissioners of Public Utilities during 2019-20.
Attended pre-hearing conferences and meetings and public hearings held by the Board of Commissioners of Public Utilities	There were no pre-hearing conferences, meetings or public hearings on insurance matters before the Board of Commissioners of Public Utilities during 2019-20.
Prepared and delivered submissions to the Public Utilities Board.	The Consumer Advocate was not required to prepare and deliver submissions to the Board of Commissioners of Public Utilities, as there were no insurance matters before the board during 2019-20.

Opportunities and Challenges Ahead

The Consumer Advocate will continue to represent the interests of the consumers of Newfoundland and Labrador, specifically in relation to regulatory issues before the PUB. This includes, the Capital Budget Applications for NF Power and NL Hydro; rate mitigation issues related to the Muskrat Falls Project; revisions to the 2007 Capital Budget Guidelines; recommendations from the Muskrat Falls Inquiry Report; and, reliability and resource issues for Muskrat Falls. The Consumer advocate will continue to work to ensure consumers are well represented as these regulatory issues progress.

Working on behalf of consumers to keep electricity affordable may be a challenge, given the costs associated with the Muskrat Falls Project. However, this task is an important one for the Consumer Advocate and represents an opportunity to engage with expert consultants in energy supply, regulatory practice, and capital/finance costs and also with electricity consumers.

Another challenge was presented by the Covid-19 global pandemic in March 2020. Due to the pandemic, world commodity prices experienced unpredictability. As well, the operations of the PUB shifted to maintaining critical operations with many PUB employees working from home with only essential work being undertaken at the PUB offices, resulting in some uncertainties for the schedule of hearings. The Consumer Advocate will continue to represent the interests of consumers by closely following the processes set out by the PUB to manage the hearing and application process while still following public health guidelines to protect the public from Covid-19.

Financial Statements

Upon appointment, the Consumer Advocate prepares a budget for approval by the Minister of Justice and Public Safety in matters pertaining to electricity. After the budget has been approved, the Consumer Advocate, in matters of electricity, renders detailed statements of account to the PUB, which 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. The Consumer Advocates expenses and fees related to the Muskrat Falls project for which the Consumer Advocate was engaged by the Department of Justice and Public Safety are Invoiced to that Department.

1. Reference to Board on Rate Mitigation Options and Impacts Pursuant to Order # OC2018-179 dated September 5, 2018

Invoice No. 14569 (April 8, 2019 – April 26, 2019)

i)	Professional Fees of the Consumer Advocate	\$8,910.00
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$2,295.00
iii)	Disbursements (including experts)	\$338.73
iv)	HST (i), (ii) & (iii)	\$1,722.77
	Total	\$13,266.50

2. Muskrat Falls Inquiry

Invoice No. 14563 (April 1, 2019 – April 25, 2019)

i)	Professional Fees of the Consumer Advocate	\$8,190.00
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$0.00
iii)	Disbursements (including experts)	\$0.00
iv)	HST (i), (ii) & (iii)	\$1,228.50
	Total	\$ 9,418.50

3. Muskrat Falls Inquiry

Invoice No. 14646 (May 13, 2019 – May 31, 2019)

i)	Professional Fees of the Consumer Advocate	\$17,212.50
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$0.00
iii)	Disbursements (including experts)	\$0.00
iv)	HST (i), (ii) & (iii)	\$2,581.88
	Total	\$19,794.38

4. Muskrat Falls Inquiry

Invoice No. 14704 (June 3, 2019 – June 28, 2019)

i)	Professional Fees of the Consumer Advocate	\$16,312.50
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$0.00
iii)	Disbursements (including experts)	\$15,653.78
iv)	HST (i), (ii) & (iii)	\$2,446.88
	Total	\$18,759.38

5. Reference to Board on Rate Mitigation Options and Impacts

Invoice No. 14708 (June 24, 2019 – June 27, 2019)

i)	Professional Fees of the Consumer Advocate	\$5,737.50
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$0.00
iii)	Disbursements (including experts)	\$15,653.78
iv)	HST (i), (ii) & (iii)	\$882.15
	Total	\$22,273.43

6. Reference to Board on Rate Mitigation Options and Impacts

Invoice No. 14710 (July 11, 2019)

i)	Professional Fees of the Consumer Advocate	\$0.00
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$ 0.00
iii)	Disbursements (including experts)	\$6,610.49
iv)	HST (i), (ii) & (iii)	\$0.00
	Total	\$6,610.49

7. Reference to Board on Rate Mitigation Options and Impacts

Invoice No. 14712 (May 23, 2019 – June 10, 2019)

i)	Professional Fees of the Consumer Advocate	\$1,743.74
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$7,020.00
iii)	Disbursements (including experts)	\$7,050.09
iv)	HST (i), (ii) & (iii)	\$1,347.42
	Total	\$17,161.26

8. Muskrat Falls Inquiry

Invoice No. 14768 (July 2, 2019 – July 30, 2019)

i)	Professional Fees of the Consumer Advocate	\$20,193.75
ii)	HST (i), (ii) & (iii)	\$3,029.06
	Total	\$23,222.81

9. Reference to Board on Rate Mitigation Options and Impacts

Invoice No. 14826 (July 31, 2019 – August 1, 2019)

i)	Professional Fees of the Consumer Advocate	\$2,418.75
ii)	Disbursements (including experts)	\$60.47
iii)	HST (i), (ii) & (iii)	\$371.88
	Total	\$2,851.10

10. Newfoundland Hydro's 2017 General Rate Application – Cost of Service Review

Invoice No. 14823 (February 20, 2019 – August 27, 2019)

i)	Professional Fees of the Consumer Advocate	\$1,845.00
ii)	Disbursements (including experts)	\$25,796.13
iii)	HST (i), (ii) & (iii)	\$ 283.67
	Total	\$27,924.80

11. Muskrat Falls Inquiry

Invoice No. 14847 (August 2, 2019 – August 16, 2019)

i)	Professional Fees of the Consumer Advocate	\$22,162.50
ii)	Disbursements (including experts)	\$1,898.09
iii)	HST (i), (ii) & (iii)	\$3,609.09
	Total	\$27,669.68

12. Reference to Board on Rate Mitigation Options and Impacts

Invoice 14947 (September 3, 2019 – October 19, 2019)

i)	Professional Fees of the Consumer Advocate	\$35,853.75
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$28,372.50
iii)	Disbursements (including experts)	\$23,567.85
iv)	HST (i), (ii) & (iii)	\$9,874.79
	Total	\$97,668.89

13. Reference to Board on Rate Mitigation Options and Impacts

Invoice No. 15012 (October 21, 2019 – November 4, 2019)

i)	Professional Fees of the Consumer Advocate	\$9,956.25
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$3,352.50
iii)	Disbursements (including experts)	\$44,889.86
iv)	HST (i), (ii) & (iii)	\$2,046.22
	Total	\$60,244.83

14. NLH Application re Cost of Service Review

Invoice No. 15018 (September 13, 2019 – October 1, 2019)

i)	Professional Fees of the Consumer Advocate	\$3,825.00
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$5,062.50
iii)	Disbursements (including experts)	\$11,222.19
iv)	HST (i), (ii) & (iii)	\$1,366.46
	Total	\$31,198.37

15. Newfoundland Hydro’s 2017 General Rate Application

Invoice No. 14903 (December 19, 2019)

i)	Professional Fees of the Consumer Advocate	\$0.00
ii)	Disbursements (including experts)	\$2,250.00
iii)	HST (i), (ii) & (iii)	\$0.00
	Total	\$2,250

16. Newfoundland Power’s 2019/2020 General Rate Application

Invoice No. 14904 (December 19, 2019)

i)	Disbursements (including experts)	\$3,375.00
ii)	HST (i), (ii) & (iii)	\$0.00
	Total	\$3,375.00

17. Newfoundland Hydro’s 2020 Capital Budget Application

Invoice No. 15178 (September 4, 2019 – November 20, 2019)

i)	Professional Fees of the Consumer Advocate	\$12,487.50
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$1,890.00
iii)	Disbursements (including experts)	\$11,123.57
iv)	HST (i), (ii) & (iii)	\$2,210.54
	Total	27,711.61

18. Newfoundland Power’s 2020 Capital Budget Application

Invoice No. 15179 (July 5, 2019 – November 26, 2019)

i)	Professional Fees of the Consumer Advocate	\$13,095.00
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$4,252.50
iii)	Disbursements (including experts)	\$11,183.69
iv)	HST (i), (ii) & (iii)	\$2,667.18
	Total	\$31,198.37

19. Reference on Board on Rate Mitigation Options and Impacts

Invoice No. 15185 (February 6, 2020 – February 13, 2020)

i)	Professional Fees of the Consumer Advocate	\$7,481.25
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$562.50
iii)	Disbursements (including experts)	\$22,085.59
iv)	HST (i), (ii) & (iii)	\$1,236.72
	Total	\$31,366.06

20. Capital Budget Guidelines Review

Invoice No. 15304 (February 25, 2020 – April 14, 2020)

i)	Professional Fees of the Consumer Advocate	\$4,556.25
ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$450.00
iii)	Disbursements (including experts)	\$125.15
iv)	HST (i), (ii) & (iii)	\$769.71
	Total	\$5,901.11

21. Reference on Board on Rate Mitigation Options and Impacts Invoice No. 15537 (March 2020)

i)	Professional Fees of the Consumer Advocate	\$0.00
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ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$0.00
iii)	Disbursements (including experts)	\$2783.00
iv)	HST (i), (ii) & (iii)	\$0.00
	Total	\$2,783.00