

THE CONSUMER ADVOCATE

ACTIVITY REPORT

April 1, 2011 to March 31, 2012

Message from the Consumer Advocate:

I am pleased to present the 2011-12 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.

As stated in the 2011-14 Activity Plan of the Consumer Advocate, the Consumer Advocate will report on the objective and indicators again in 2012-2013.

A handwritten signature in black ink, appearing to read "Thomas Johnson". The signature is fluid and cursive, with a large initial "T" and "J".

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

Table of Contents

Table of Contents	3
Introduction/Overview	1
Introduction/Overview	1
Mandate	1
Vision	2
Highlights and Accomplishments	2
Activities	3
Opportunities and Challenges Ahead	4
Financial Statements	4

Introduction/Overview

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, 2011 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, 2011 appointment was a renewal of a previous similar appointment made in August of 2010.

In relation to insurance matters, on June 8, 2007 the Lieutenant-Governor in Council extended my 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 or insurer(s) making the application or involved in the review as the case may be.

Mandate

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.

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

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 2011-2012 period was quite active as regards the Consumer Advocate's representation of electricity consumers in the province. The following section highlights certain areas/issues in which the Consumer Advocate was engaged:

(1) Muskrat Falls Reference to the Public Utilities Board

In June of 2011, the Consumer Advocate was appointed pursuant to section 117 of the *Public Utilities Act* and Order in Council to represent customers in relation to the Muskrat Falls Reference to the Public Utilities Board. The Consumer Advocate did so and filed his Report to the Board on March 2, 2012 in relation to the issues raised in the reference question.

(2) Joint Use Support Structures sale by Newfoundland Power Inc. to Bell Aliant

The Consumer Advocate represented customers' interest in relation to the application of Newfoundland Power Inc. seeking approval to sell joint use support structures to Bell Aliant.

(3) Newfoundland Power – 2012 Capital Budget Application

The Consumer Advocate represented customers' interests in relation to Newfoundland Power's 2012 Capital Budget Application to the Board.

(4) Newfoundland and Labrador Hydro – 2012 Capital Budget Application

The Consumer Advocate represented customers' interests in relation to Newfoundland and Labrador Hydro's 2012 Capital Budget Application to the Board.

(5) Newfoundland Power's Application to Suspend Operation of the Automatic Adjustment Formula and Review of Cost of Capital for 2012

In late 2011, the Consumer Advocate represented customers in relation to the above-captioned matter and retained a cost of capital expert to advise the Consumer Advocate in relation thereto.

Activities

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.

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 the Muskrat Falls Review; the Capital Budget Applications of Newfoundland Power Inc. and Newfoundland and Labrador Hydro; the Joint Use Support Structure Sale Application of Newfoundland Power Inc.; Newfoundland and Labrador Hydro's Application for Approval of Demand Credit Rate Structure Agreement for Corner Brook Pulp and Paper Ltd.; Newfoundland and Labrador Hydro's Application to upgrade access road to the Bay d'Espoir Generating Station; Newfoundland Power Inc.'s Application for approval of the adoption of U.S. Generally Accepted Accounting Principles (GAAP) for regulatory purposes; Newfoundland Power Inc.'s

	Application to suspend operation of the Automatic Adjustment Formula and review of cost of capital for 2012; and Newfoundland and Labrador Hydro's Application regarding a service agreement for Vale Newfoundland and Labrador Limited.
Attended pre-hearing conferences and meetings and public hearings held by the Board of Commissioners of Public Utilities	The Consumer Advocate attended pre-hearing conferences, meetings and public hearings, as applicable: in relation to the Muskrat Falls Review; the Joint Use Support Structure Sale Application by Newfoundland Power Inc., and the Newfoundland and Labrador Hydro 2012 Capital Budget Application.
Prepared and delivered submissions as directed by the Board of Commissioners of Public Utilities to represent the interests of consumers.	Submissions were made to the Board of Commissioners of Public Utilities: in relation to the Muskrat Falls Review; Joint Use Support Structure Sale by Newfoundland Power Inc. to Bell Aliant; Application regarding deferral of Newfoundland and Labrador Hydro's conservation and demand management program costs in 2011; Newfoundland Power's 2012 Capital Budget Application, Newfoundland and Labrador Hydro's 2012 Capital Budget Application; Newfoundland and Labrador Hydro's Application regarding demand credit rate structure agreement for Corner Brook Pulp and Paper Ltd.; Newfoundland Power Inc.'s Application for re-hearing following P.U. 17 (2011); Newfoundland and Labrador Hydro's Application to upgrade access road, Bay d'Espoir; Newfoundland Power's Cost Recovery Deferral Application; Newfoundland Power Inc.'s Application for adoption of U.S. Generally Accepted Accounting Principles (GAAP); Newfoundland Power Inc.'s Application to suspend operation of the Automatic Adjustment Formula and review of cost of capital for 2011, and the Newfoundland and Labrador Hydro Application regarding a Service Agreement for Vale Newfoundland and Labrador Limited.

Opportunities and Challenges Ahead

The Consumer Advocate expects that both Newfoundland and Labrador Hydro and Newfoundland Power Inc. will file General Rate Applications in 2012. These General Rate Applications will be in addition to the normal annual matters such as capital budget applications that are filed by the utilities. In light of the regulatory load in the upcoming year, the Consumer Advocate anticipates that there will be an increasing requirement for the Consumer Advocate's participation.

Financial Statements

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 the 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 consumer of the province, it is appropriate to treat each separately in this section.

Insurance

Nil

Electricity Consumer Representation

A. Newfoundland Power – Retail Rate Study

Invoice dated May 11, 2011 (for services from February 2, 2010 to April 13, 2011)

(i)	Professional Fees of the Consumer Advocate	\$14,800.00
(ii)	Non Taxable Disbursements	\$ 6,782.96
(iii)	H.S.T. on (i)	\$ 1,924.00
	Total	\$23,506.96

B. Joint Use Support Structures Sale by Newfoundland Power Inc. to Bell Aliant

Invoice dated June 30, 2011 (for services from February 4, 2011 to June 1, 2011)

(i)	Professional Fees of the Consumer Advocate	\$33,750.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$ 1,204.00
(iii)	Disbursements	\$ 4,843.50
(iv)	H.S.T on (i), (ii) & (iii)	\$ 5,173.68
	Total	\$44,971.18

C. Newfoundland and Labrador Hydro Application re Deferral of Hydro's Conservation and Demand Management Program Costs to be increased in 2011

Invoice dated October 31, 2011 (for services from February 16, 2011 to March 17, 2011)

(i)	Professional Fees of the Consumer Advocate	\$ 750.00
(ii)	H.S.T on (i)	\$ 97.50
	Total	\$ 847.50

D. Newfoundland Power – 2012 Capital Budget Application

Invoice dated October 31, 2011 (for services from July 08, 2011 to October 04, 2011)

(i)	Professional Fees of the Consumer Advocate	\$17,920.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$ 6,735.00
(iii)	Disbursements	\$ 275.40
(iv)	H.S.T on (i), (ii) & (iii)	\$ 3,240.95
	Total	\$28,171.35

E. Newfoundland Hydro 2012 Capital Budget Application

Invoice dated November 30, 2011 (for services from August 05, 2011 to November 30, 2011)

(i)	Professional Fees of the Consumer Advocate	\$30,100.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$30,765.00
(iii)	Disbursements	\$ 928.35
(iv)	H.S.T on (i), (ii) & (iii)	\$ 8,033.14
	Total	\$69,826.49

F. Public Utilities Board – Review of Lower Churchill

Invoices dated December 31, 2011 and March 31, 2012 (for services from June 17, 2011 to November 30, 2011 and December 01, 2011 to March 31, 2012) and Invoices (4) for Disbursements dated November 1, 2011, November 17, 2011, February 1, 2012 and February 21, 2012

(i)	Professional Fees of the Consumer Advocate	\$287,690.00
(ii)	Professional Fees of Legal Counsel to the	

	Consumer Advocate	\$ 44,745.00
(iii)	Disbursements (including experts)	\$170,631.67
(iv)	Non Taxable Disbursements	\$ 367.44
(v)	H.S.T on (i), (ii) & (iii)	\$ 65,398.67
Total		\$568,832.78

G. Approval of Demand Credit Rate Structure Agreement for Corner Brook Pulp & Paper Ltd.

Invoices dated October 31, 2011 and March 26, 2012 (for services from August 2, 2010 to January 3, 2011 and from December 23, 2011 to March 5, 2012)

(i)	Professional Fees of the Consumer Advocate	\$2,170.00
(ii)	Disbursements (including experts)	\$2,913.00
(iii)	H.S.T on (i) & (ii)	\$ 660.79
Total		\$5,743.79

H. Application for re-hearing of Application following P.U. 17 (2011) Appeal of Decision P.U. 17 (2011)

Invoice dated October 31, 2011 (for services from July 22, 2011 to September 30, 2011)

(i)	Professional Fees of the Consumer Advocate	\$3,980.00
(ii)	Professional Fees of Legal Counsel to the Consumer Advocate	\$1,035.00
(iii)	H.S.T on (i) & (ii)	\$ 651.95
Total		\$5,666.95

I. Hydro's Application – Upgrade Access Road – Bay d'Espoir Hydroelectric Generation Station

Invoice dated October 31, 2011 (for services from August 12, 2011 to October 14, 2011)

(i)	Professional Fees of the Consumer Advocate	\$2,710.00
(ii)	Disbursements	\$ 33.25
(iii)	H.S.T on (i) & (ii)	\$ 356.62
Total		\$3,099.87

J. Newfoundland Power's September 16, 2011 Cost Recovery Deferral Application (Due to Expiring Amortization)

Invoice dated October 31, 2011 (for services from September 17, 2011 to October 28, 2011)

(i)	Professional Fees of the Consumer Advocate	\$1,150.00
(ii)	Disbursements	\$ 14.25
(iii)	H.S.T on (i) & (ii)	\$ 151.35
Total		\$1,315.60

K. Newfoundland Power – A Proposal for the January 1, 2012 Adoption of U.S. GAAP for Regulatory Purposes

Invoice dated March 26, 2012 (for services from November 10, 2011 to December 15, 2011)

(i)	Professional Fees of the Consumer Advocate	\$3,960.00
(ii)	Disbursements (including expert fees)	\$ 204.25
(iii)	H.S.T on (i) & (ii)	\$ 541.35
Total		\$4,705.60

L. Newfoundland Power's Application to Suspend Operation of the Automatic Adjustment Formula and Review of Cost of Capital for 2012

Invoice dated March 26, 2012 (for services from November 23, 2011 to December 13, 2011)

(i)	Professional Fees of the Consumer Advocate	\$6,780.00
(ii)	Disbursements (including expert fees)	\$4,260.45
(iii)	H.S.T on (i) & (ii)	\$1,435.26
Total		\$12,475.71

M. Service Agreement for Vale Newfoundland and Labrador Limited

Invoice dated March 26, 2012 (for services from December 22, 2011 to March 20, 2012)

(i)	Professional Fees of the Consumer Advocate	\$ 5,640.00
(ii)	Disbursements (including expert fees)	\$ 5,399.61
(iii)	H.S.T on (i) & (ii)	\$ 1,435.15
Total		\$12,474.76

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