

# ***POWER CORPORATION ACT***

*5th Session, 13th Legislative Assembly of the Northwest Territories*

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An information paper on  
joint ownership  
and continuance of the  
NWT Power Corporation  
after April 1, 1999

Honourable Charles Dent  
Minister Responsible,  
NWT Power Corporation

November 24, 1997



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The creation of two new territories in April 1999, will change the way many services are delivered for both Nunavut and the Western Territory. It means creating new organisations, and as we all know, there will be new costs and concerns involved in achieving this historic event.

But among all these changes, one vital service can and should remain constant: the efficient supply of reliable electricity at the lowest cost.

This is the fundamental strategy behind the NWT Government's proposal that the NWT Power Corporation -- a sound utility business that all Northerners already own -- should stay together as the best way to avoid extra cost and maintain reliable service through and after the creation of two new Territories.

Because we are proposing two government owners instead of one, some aspects of the way we do business do need to be changed. These include a new corporate structure under Canadian business law, a new collective agreement under federal labour law, and eventually, a new name for the Corporation.

But, the most important aspects are the ones that won't need to change. There won't be any layoffs or relocations for staff or managers. There won't be increases in power rates because of Division -- in fact, we can avoid millions of dollars of extra cost that would result from two smaller corporations. There would continue to be full public accountability and regulation. And with a new rates policy approved, there is already an end to cross-subsidization between regions and communities. The Power Corporation will continue to be run as a business.

There has been considerable consultation on this plan, and broad support-in-principle from many of the stakeholders. Through the public hearings process of the Standing Committee on Government Operations, and the attached list of often-asked questions and answers, I look forward to broader understanding of how we can jointly achieve one continuing power service.

Thank you.

Charles Dent

## PROFILE: NWT POWER CORPORATION

- Mission:** To supply safe, reliable energy and related services in the Territories while following sound business practices and demonstrating leadership in protecting the environment.
- Owner:** 100% owned by the NWT Government, through a single shareholder who is the Minister Responsible for the NWT Power Corporation.
- Authorities:** *NWT Power Corporation Act*. Created in 1988 to take over from the federal Northern Canada Power Commission.
- Governance:** A Chairman and Board of Directors, appointed by the Minister, is responsible for the Corporation's strategic direction and performance.
- Management & Staff:** 285 staff in 50 communities, headquartered in Hay River with regional offices in Inuvik, Yellowknife and Iqaluit. Responsible for the delivery of service, maintenance, engineering and administration.
- Regulation:** Accountable to the NWT Public Utilities Board, NWT Water Board, Auditor General of Canada and the NWT Legislative Assembly for various aspects of rates setting and corporate, financial and operating standards.

### STATISTICAL REVIEW 1996/97:

<b>Customers:</b>	17,000 (plus 8,400 indirect in Hay River & Yellowknife)
<b>Generating Capacity:</b>	45.4 megawatts hydro 123.8 megawatts diesel
<b>Sales:</b>	438,649 megawatt hours
<b>Operating Revenues:</b>	\$102.6 million
<b>Net Earnings:</b>	\$9.1 million
<b>Dividend to Shareholder:</b>	\$5.8 million
<b>Fixed Assets:</b>	\$350 million

**EXHIBIT A: NWT BLOWERS CORPORATION ACT**

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**Minister:** Hon. Charles Dent  
(MLA, Yellowknife Frame Lake)

**Chairman:** Pierre Alvarez, Yellowknife

**Vice Chairman:** Simon Merkosak, Pond Inlet

**Board of Directors:** Charlie Evalik, Cambridge Bay  
Rod Hardy, Tulit'a  
John Parker, OC, P.Eng., Sidney, BC  
Gordon Stewart, Yellowknife  
Tom Zubko, Inuvik

**President:** Leon Courneya, CA, Hay River

**Corporate Secretary:** Jeannee Johnson, Yellowknife

**Management Team:**

Vice President, Finance:	Christine Jackson, CA, Hay River
Vice President, Operations:	Rick Blennerhassett, P.Eng., Hay River
Director, Personnel	Derek Aindow, Hay River
Director, Corporate Development	Bill Braden, Yellowknife
Director, Materials Management	Bob Blowers, Hay River
Director, Western Operations	Pun Chu, P.Eng., Inuvik
Director, Operations Support	John Davies, Hay River
Director, Nunavut Operations	Axel Have, P.Eng., Iqaluit
Director, Information Systems	John Locke, Hay River
Director, Internal Audits & Environmental Affairs	J. Andrew Nelson, Hay River
Director, Central Operations	Dan Roberts, P.Eng., Yellowknife
Director, Engineering	Gerd Sandrock, P.Eng., Hay River
Director, Finance	Robert Sadleir, CA, Hay River
Manager, Regulatory Affairs	Howie Thomas, Hay River

## QUESTIONS & ANSWERS: POWER CORPORATION ACT

### PROCEDURAL ISSUES:

#### ■ **WHY ARE PUBLIC HEARINGS NEEDED FOR A NEW POWER CORPORATION ACT?**

The GNWT, as the owner of the Power Corporation, is proposing new terms for joint ownership by the two new governments. This is the best alternative to splitting into two smaller corporations. To enable this to happen, we have to change existing laws.

Public hearings are required when major changes to laws and legislation, or new ones, are proposed. It is the public's opportunity to learn about the proposals, and question why they are needed. This public input will be carefully considered when the Legislative Assembly votes on the proposed changes.

#### ■ **WHO HAS A STAKE IN THE PROCESS?**

Customers

Employees

Government of the NWT

Office of the Interim Commissioner for Nunavut

Western Coalition

Nunavut Tunngavik Incorporated

Nunavut Implementation Commission

Government of Canada

Regulators

Suppliers and Contractors

Business Associates such as: Inuvialuit Petroleum Corporation  
Gwich'in Development Corporation  
Dogrib Power Corporation

#### ■ **WHY SHOULDN'T WE HAVE TWO SEPARATE POWER COMPANIES?**

That's entirely possible. In fact, the Nunavut Act (the federal law which creates the new territory of Nunavut) says that unless other arrangements are made, *all* government agencies will *automatically* be divided effective April 1, 1999.

But power costs in the NWT are already among the highest in Canada, and we can show that two smaller corporations would cost much more to operate than continuing the one we have today. Over the long term, it would be more difficult for two smaller companies to attract skilled staff, maintain the engines and keep the power systems in good condition. Splitting the Corporation would mean less reliability.

## QUESTIONS & ANSWERS: POWER CORPORATION ACT

We wanted to find a way to avoid added expense, keep our skilled workforce intact, and maintain our record of improving reliability. Continuance as the same company under joint ownership does this.

### ■ **WHAT STEPS ARE NEEDED TO ACHIEVE JOINT OWNERSHIP?**

It should be understood that if the proposed *Power Corporation Act* is approved, it will not change anything right away. Instead, it will enable various steps to take place at a suitable future time. These steps would include:

- Coming into force of the *Power Corporation Act*, and corresponding amendments to the *Public Utilities Act*, *Financial Administration Act*, *Public Service Act*, and *Property & Taxation Act*.
- Agreement between Nunavut, GNWT, and Government of Canada on terms and conditions of a shareholders agreement, bylaws, etc..
- Resolution of employee-related issues, such as employee status and pensions, between the Corporation and Union of Northern Workers.
- File for continuance under the *Canada Business Corporations Act*.
- Preparation for collective bargaining prior to expiry of the current contract on December 31, 1998.

### ■ **WHEN COULD ALL THIS HAPPEN?**

We propose that all these arrangements would be in place or well underway before December 31, 1998. They would have to be completed before April 1, 1999, to comply with the deadline set by the *Nunavut Act*.

### ■ **WHAT HAPPENS IF THESE PROPOSALS AREN'T ACCEPTED?**

Unless a different proposal comes forward that satisfies all the stakeholders, the provision in the *Nunavut Act* for two corporations automatically comes into force.

### ■ **WOULD THERE BE A REVIEW OF HOW THE PARTNERSHIP IS WORKING OUT?**

The first level of performance review would be the Board of Directors. Through the Chair, they would report to the shareholders on a regular basis. The shareholders themselves could meet at any time to discuss issues and measure performance, concerns and expectations. Under provisions of the Shareholders' Agreement, and the *Canada Business Corporations Act*, disputes or difficulties would be resolved at the Board table or through arbitration.

Other methods for resolving potential issues between shareholders could be incorporated in the shareholders' agreement.

## QUESTIONS & ANSWERS: POWER CORPORATION ACT

### FINANCIAL ISSUES:

■ ***HOW MUCH MORE WOULD IT COST TO RUN TWO CORPORATIONS?***

We estimate that rates would go up about 5 per cent in the West and about 8 per cent in Nunavut, or about \$3 million more for each territory every year. This is because two smaller markets would have to pay proportionate costs for duplicate administrations and overheads.

This would be on top of today's annual electrical costs that total \$61 million for the Western NWT and \$45 million for Nunavut.

■ ***THE WESTERN NWT WOULD ALREADY HAVE A HEADQUARTERS IN HAY RIVER. WHAT ABOUT NUNAVUT?***

Right now, Hay River headquarters has a staff of about 75 people who do a lot of the overhead work, like engineering, regulatory and accounting, for all regions. We estimate it would cost about \$5 million in one-time start-up expense for Nunavut to build and staff its own new headquarters. This would have to be paid for by Nunavut customers alone. There would be an offsetting, negative impact on the Hay River region due to the loss of jobs to Nunavut.

The Power Corporation is not a subsidized government department. It is required to operate as a business, and is self-financed through costs paid by the customer. Making two new corporations would force extra cost affecting all northern consumers.

■ ***WHAT ABOUT GETTING THE FEDERAL GOVERNMENT TO PAY THESE EXTRA COSTS?***

In setting out the *Nunavut Act*, all parties agreed to find the most cost-effective and efficient ways to continue delivering public services. It is very doubtful that the federal government would pay this, now that we have demonstrated there is a way to avoid the additional expense.

■ ***WHAT ABOUT THE DIVISION OF SHARES... HOW MUCH WILL EACH TERRITORY OWN?***

We are proposing that the Western NWT receives 60 per cent of the shares, and Nunavut 40 per cent.

The fairest, most business-like way of dividing the shares is to look at the value of the equity which has been built up since 1988. Equity is based on two critical business conditions:

### ***Original capital stock:***

When the former Northern Canada Power Commission sold its ongoing shares to the GNWT in 1988, the sale price was only \$1. That's correct -- one dollar. But along with the shares came continuing debt of \$98 million that NCPCC still owed. This was negotiated down to \$53 million, which the Corporation has been paying off. (It will be fully paid by June of 1998.)

The difference between the actual debt and the negotiated debt -- \$43 million -- was absorbed by the federal government and "gifted" to the people of the NWT. It is the original capital stock for the NWT Power Corporation. In the context of Division, we propose it be split equally between Nunavut and the West, or \$21.5 million each.

### ***Retained earnings:***

These are the profits which have been earned since 1988. Some profits are paid out as the dividend to the shareholder, and some are retained to help finance ongoing expenses and investment. As of March 1997, the retained earnings amounted to \$55.8 million.

### ■ ***HOW MUCH OF THIS CAME FROM CUSTOMERS IN THE WEST AND CUSTOMERS IN NUNAVUT?***

To determine this, we used an important utility standard called **the rate base**. This is the value of the assets and equipment (1997: \$218 million) against which profit levels are set. The value of the rate base in Nunavut is \$68.5 million, or 31 per cent of the total. In the West it is \$149.5 million, or 69 per cent.

By applying these rate base percentages to the total retained earnings, we see an allocation of \$17.5 million to Nunavut, and \$38.3 million to the West.

By blending the 50/50 capital stock split with the 31/69 split of retained earnings, we arrive at the proposed equity/share allocation:

\$39.097 million or 40 per cent for Nunavut  
\$59.822 million or 60 per cent for the West

### ■ ***WHAT OTHER MEASUREMENTS OF VALUE COULD BE USED?***

There are many other ways of calculating the shares, such as number of customers, dollar sales, kilowatt hour sales, or fixed assets. Rate base, as explained above, is a more reasonable method as reflected in the 60/40 allocation.



## **QUESTIONS & ANSWERS: POWER CORPORATION ACT**

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- ***ON THIS BASIS, HOW MUCH WILL EACH TERRITORY HAVE TO PAY FOR THESE SHARES?***

Nothing. As the Corporation is already owned by the government on behalf of the people of the NWT, there will be no cost to continuing ownership between the two new governments.

- ***HOW WOULD THE NEW CORPORATION BORROW MONEY AND PAY DEBTS?***

Since it started in 1988, the Power Corporation has not used any government money. Instead, it has used the government's *guarantee* to borrow money on the commercial money markets (like pension and insurance funds). It pays these debts down through ongoing revenues, just like any other business. The government has never been called on to cover a loan payment.

The same process would take place with two owners: the Corporation would borrow the money, guaranteed by each government in proportion with their share holding (60 per cent West, 40 per cent Nunavut).

Each government would pay its percentage of the debt, in the unlikely event of default by the Corporation on a loan payment. The new governments would assume proportionate guarantees for the Corporation's long term debt of \$145.6 million.

- ***WHAT ABOUT SHARING PROFITS (DIVIDENDS)?***

Depending on the financial performance from year to year, the Board of Directors would determine how much the Corporation can afford to release as a fair dividend, and how much it needs to keep as retained earnings. It would then issue payments according to the share holding to each government.

This is an important change from the current system, whereby the Minister responsible can arbitrarily direct the Board to make payments. In agreeing to this change, both governments would clearly delegate to the Board the responsibility to ensure the Corporation's financial/operational needs are met first.

- ***WOULD PUBLIC REGULATION OF RATES CONTINUE?***

In 1992, the government established the NWT Public Utilities Board (PUB) as the final authority in setting power rates, and terms of service, that are fair to both the customer and the Power Corporation. Resolving how regulation could continue for one Power Corporation, operating in two territories, has been studied closely.

## QUESTIONS & ANSWERS: POWER CORPORATION ACT

It has been decided to proceed under the terms of the *Nunavut Act* and see the creation of new PUBs in each territory. To enable a consistent approach to regulation, the Minister Responsible for the PUB has proposed amendments which would permit special joint panels to be set up when trans border issues arise. This is a satisfactory arrangement for the Power Corporation.

▣ ***WILL THE DIVIDEND TO EACH GOVERNMENT BE ENOUGH TO FUND THE POWER SUBSIDY PROGRAM?***

The Territorial Power Support Program and the Business Rebate Program are the responsibility of the GNWT. However, the Power Corporation administers the programs for the government, and its annual dividend to the government has provided the funds to pay for the subsidies.

Changes in rates and housing policy since 1989 have more than doubled the cost of the subsidies, to \$5.9 million last year. By 2000, it is estimated to be \$8 million. The Corporation's own revenues cannot match this rapid increase. The dividend to each government would not be enough to fully fund the subsidy program as it now operates.

This is not a Division-related problem. Unless the program is changed, other funding will need to be found to sustain power subsidies.

▣ ***DOESN'T THE WEST SUBSIDIZE THE EASTERN ARCTIC NOW, AND WON'T THIS JUST CONTINUE?***

Communities and businesses in the West do not, and will not, subsidize Nunavut. Power rates are based on collecting the costs of providing service to a given community from that community. As a group, eastern communities pay all the costs of providing power in Nunavut. This will continue after Division.

Isn't the unrealized market value of the West's assets -- like hydro dams -- worth more than the assets in Nunavut? So wouldn't the West be better off having its own Corporation?

The assets in both Territories are paid for by revenues from customers on a community-cost basis. The revenues are based on the original cost of the asset -- not on a floating replacement or market value. This method protects the customer from paying more than the original cost. It also limits the cash flow, and therefore, the value of the asset to others.

Any benefit from selling power to new customers (like a new mine using an existing dam) would flow back in the form of lower rates to the customers and community that originally paid for the dam. That benefit would belong only to that community and the West as a whole would not receive a collective benefit.

## QUESTIONS & ANSWERS: POWER CORPORATION ACT

### CORPORATE ISSUES:

#### ■ ***SO HOW DOES JOINT OWNERSHIP WORK BETWEEN GOVERNMENTS?***

The Corporation would use the same business rules that companies like Northwestel and Arctic Cooperatives have. We would continue under the *Canada Business Corporations Act (CBCA)*, which is a set of federal laws for companies that operate across borders.

The CBCA is recognized across Canada as a solid legal basis for companies to operate with. It contains rules that set out how the partners -- the two new shareholders -- will conduct business affairs. It protects each shareholder by ensuring that decisions are made fairly and openly, and has conditions that set out how disputes can be resolved.

Another important document that the new governments would negotiate is a Unanimous Shareholders Agreement, or USA. This covers the unique conditions of the partnership, like the division of shares and financial aspects like borrowing and profit sharing.

We are proposing a 12-member Board of Directors. The Chair would be jointly appointed by the two governments. To reflect their proposed share holdings of 40 and 60 per cent, Nunavut would appoint four directors and the West, six. The Board would collectively appoint a President, who would ideally be a professional with utility and corporate experience and would sit as a Member of the Board.

#### ■ ***WOULDN'T COMING UNDER THE CBCA AMOUNT TO PRIVATIZING THE POWER CORPORATION?***

Definitely not. That's because ownership stays exclusively with the public governments. By legislation, no other shareholders could be brought in without the express approval of the legislatures. *- Either side could amend FPA  
- but still USA*

#### ■ ***WHAT WOULD HAPPEN TO AFFIRMATIVE ACTION, LANGUAGE AND OTHER NORTHERN POLICY?***

The Corporation already has policy and/or practice that is consistent with existing GNWT policy. The Corporation would maintain standards that make good business sense, and would continue to strive to demonstrate corporate leadership across both territories.

## **QUESTIONS & ANSWERS: POWER CORPORATION ACT**

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### ▣ ***WHAT ABOUT ENVIRONMENTAL LIABILITIES?***

The Corporation would continue to be responsible for environmental issues past, present and future. A system-wide assessment is now underway to find out where there may be problems, and what action should be taken. The cost of these measures has not been determined.

The Corporation is now allocating funds from rates into environmental contingency accounts, and has insurance policies which would cover at least some of the cost in the event of accident. Ultimately, through power rates, the customer will pay environmental costs, as they are deemed a normal part of the cost of supplying service.

The Corporation has already made substantial investments in environmental priorities including PCB removal, waste oil management, fuel system upgrades and training.

### ▣ ***WHO DO I GO TO IF I HAVE A PROBLEM WITH THE NEW COMPANY?***

On a day-to-day basis, the Corporation's management and staff, as governed by the Board of Directors, would continue to be responsible to customers for the way service is delivered. The Public Utilities Boards would also continue to have an important role, as they set terms and conditions of service that the Corporation has to follow.

### ▣ ***WHY DOES THE CORPORATION NEED A NEW NAME?***

After Division, the "NWT Power Corporation" won't be correct or appropriate. We have started looking for a new name, beginning with ideas from employees. We want to reflect the new regions, and potential new business directions that the Corporation is undertaking, such as building more heat recovery systems using residual heat produced by diesel engines. The selection of the name will be decided at a later date.

## QUESTIONS & ANSWERS: POWER CORPORATION ACT

### EMPLOYEE ISSUES:

#### ■ **WHAT DO THE EMPLOYEES SAY ABOUT THE PLAN?**

Employees have stated clear, but conditional support. A joint union-management committee was set up early in 1997 to exchange information and resolve issues. The principle areas are:

##### ***Withdrawal as public servants:***

Corporation workers would be withdrawn from the territorial governments' *Public Service Acts*, to become the exclusive employees of the Corporation. Their terms and conditions of employment would then come under the federal *Canada Labour Code*, as the Corporation itself moves under the federal *Canada Business Corporations Act*.

##### ***Continuance of collective bargaining:***

The workers would have the right to continue their own collective bargaining unit. The Corporation would have the responsibility to negotiate with this unit. The Union and the Corporation would negotiate collective agreements, under the *Canada Labour Code*, independent of the two territorial governments.

The Union and the Corporation have agreed that collective bargaining for a new contract would begin within 90 days of the effective date of removal from the *Public Service Act*. The current agreement expires December 31, 1998.

##### ***New Pension Plan arrangements:***

Because employees will no longer be able to participate in the current Superannuation Plan, the Union and the Corporation are developing an independent pension plan that will mirror the benefits now in place under Superannuation.

#### ■ **ARE ANY NEW JOBS ARE BEING CREATED THROUGH THESE PROPOSALS?**

All changes in staffing, as today, would have to be justified on the basis of operating and administrative need. The creation of a new territory dramatically changes our operating needs because of forced growth in several communities. In response to the new market opportunities in Nunavut, we have created five new positions in that region. We see an additional three positions being created when operating needs warrant.

■ ***WHAT WILL CHANGE FOR SUPPLIERS WHO DO A LOT OF BUSINESS WITH NWTPC?***

Businesses and suppliers to the Corporation would not be affected by the joint ownership. Continuance of the Corporation means just that -- our standard business conditions and relationships remain in place. For businesses, this is a distinct advantage over creating two new corporations, and different systems for contracting and credit.

■ ***WHAT IF THERE ARE UNEXPECTED PROBLEMS WITH THE PLAN?***

We have tried to answer, or have contingencies, for the known or foreseeable issues. The Corporation has almost ten years of a good track record and a professional workforce. No plan is perfect, but we are confident this one provides as much security and confidence as possible in the context of such a major challenge.

Experts on legal, financial and corporate planning have been at work on these proposals since the fall of 1995. We could speculate about everything that might go wrong. Instead, we would prefer to focus on making the plan work, and be ready to act quickly and decisively when weaknesses or errors show up.

***For more information:***

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