DECISION **NSUARB-NSPI-P-888**
2008 NSUARB 140

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE PUBLIC UTILITIES ACT

- and -

IN THE MATTER OF AN APPLICATION by **Nova Scotia Power Incorporated** for approval of certain Revisions to its Rates, Charges and Regulations

BEFORE: Peter W. Gurnham, Q.C., Panel Chair
Roland A. Deveau, LL.B., Member
Kulvinder S. Dhillon, P. Eng., Member

COUNSEL: **NOVA SCOTIA POWER INCORPORATED**
René Gallant, LL.B.
Terry Dalgleish, Q.C.
Nicole Godbout, LL.B.

AFFORDABLE ENERGY COALITION
Susan Nasser

AVON VALLEY *et al.*
Robert G. Grant, Q.C.
Nancy G. Rubin, LL.B.
Mark Freeman, LL.B.

SMALL BUSINESS ADVOCATE AND CONSUMER ADVOCATE
John P. Merrick, Q.C.
William L. Mahody, LL.B.

HALIFAX REGIONAL MUNICIPALITY
Martin C. Ward, Q.C.
Angus Doyle

MUNICIPAL ELECTRIC UTILITIES OF NOVA SCOTIA CO-OPERATIVE
Don Regan

NDP CAUCUS OFFICE
Graham Steele, MLA

PROVINCE OF NOVA SCOTIA (Department of Energy)
Stephen T. McGrath, LL.B.
Scott McCoombs
Richard Penny

NEWPAGE PORT HAWKESBURY LIMITED and **BOWATER MERSEY PAPER COMPANY LIMITED**
George T. H. Cooper, Q.C.
David S. MacDougall, LL.B.
James MacDuff, LL.B.

QUETTA INC.
John H. Reynolds

HEARING DATES: September 15, 17 & 18, 2008

FINAL SUBMISSIONS: September 25 and 29, 2008

LIST OF INTERVENORS: APPENDIX A

BOARD COUNSEL: S. Bruce Outhouse, Q.C.

DECISION DATE: **November 5, 2008**

DECISION: **Settlement Agreement approved; Average rate increase of 9.3% effective January 1, 2009.**

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1.0 INTRODUCTION

[1] This decision is further to a public hearing conducted by the Nova Scotia Utility and Review Board (the "Board") on September 15, 17 and 18, 2008, in the matter of an application by Nova Scotia Power Incorporated ("NSPI", the "Company", the "Utility") for approval of revisions to its Rates, Charges and Regulations.

[2] NSPI is engaged in the production and supply of electrical energy. It distributes electricity through a province-wide system and, as at December 31, 2007, served approximately 478,038[1] customers, including six municipal electric utilities.

[3] In its application, dated May 27, 2008, NSPI requested an increase in rates in order to meet its estimated revenue requirement increase for 2009 of $132.5 million. NSPI used 2009 estimated costs as a 'test year' for the purpose of determining the additional revenue it required and the corresponding rate increases for its various customer classes should its application be approved. The proposed overall average rate increase was 11.9%, with certain customer classes subject to a higher or lower rate increase. For example, residential customers would see a 12.1% increase with increases ranging from 9.6% to 17.4% for all other metered classes of customers.

[4] The public hearing was duly advertised in accordance with sections *64* and *86* of the *Public Utilities Act*, R.S.N.S. 1989, c. 380, as amended (the "*Act*"), which read as follows:

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[1] NSPI 2007 Annual Report, p. 62

Approval of schedule of rates and charges of utility

64 (1) No public utility shall charge, demand, collect or receive any compensation for any service performed by it until such public utility has first submitted for the approval of the Board a schedule of rates, tolls and charges and has obtained the approval of the Board thereof.

Filing with Board

(2) The schedule of rates, tolls and charges so approved shall be filed with the Board and shall be the only lawful rates, tolls and charges of such public utility until altered, reduced or modified as provided in this Act. R.S., c. 380, s. 64.

Notice of hearing of application for rate changes

86 Notice of the hearing of any application, for the approval of or providing for an increase or decrease in the rates, tolls and charges of any public utility, shall be given by advertisement in one or more newspapers published or circulating in the cities, towns or municipalities where such changes are sought, for three consecutive weekly insertions preceding the date of said hearing, unless otherwise ordered by the Board. R.S., c. 380, s. 86.

[5] A total of 31 formal intervenors responded to NSPI's application. A number of these parties (identified in Appendix A attached) were represented at the hearing by counsel. The Nova Scotia Department of Energy (the "Province"); the Small Business Advocate and Consumer Advocate (the "CA"); Avon Valley *et al.* ("Avon"), whose Counsel represented 17 intervenors; NewPage Port Hawkesbury Limited and Bowater Mersey Paper Company Limited ("NPB"); Halifax Regional Municipality ("HRM"); Affordable Energy Coalition ("AEC"); the NDP Caucus office; the Municipal Electric Utilities of Nova Scotia Co-operative ("MEUNSC"); and Quetta Inc., all participated in the hearing. The Board also received numerous submissions from members of the public opposing NSPI's application.

2.0 BACKGROUND

[6] NSPI is a vertically integrated, investor-owned, regulated public utility with a virtual monopoly on electricity service throughout the Province. It is the primary electricity supplier in Nova Scotia, providing over 95% of the electricity generation, transmission and distribution in the Province. The Board regulates NSPI in the public interest on a cost-of-service basis. The *Act* gives the Board broad regulatory oversight over public utilities and provides it with the authority to discharge its regulatory responsibilities. In addition to statutory requirements to be considered during a general rate application, the Board is also guided by long-established, fundamental rate-making principles. In its Decision dated March 31, 2005, on a rate application by NSPI, the Board explained these guidelines as follows:

> In utility regulation, there are generally accepted principles which govern the rate-making exercise. The object of rate-making under a cost-of-service-based model is that, to the extent reasonably possible, rates should reflect the cost to the utility of providing electric service to each distinct customer class. In regulating NSPI, the Board is guided by these generally accepted principles as well as by case law.
>
> A widely-accepted publication written by Dr. James Bonbright entitled **Principles of Public Utility Rates,** sets out the following guidelines for determining appropriate rates:
>
> **CRITERIA OF A SOUND RATE STRUCTURE**
>
> 1. The related, "practical" attributes of simplicity, understandability, public acceptability, and feasibility of application.
> 2. Freedom from controversies as to proper interpretation.
> 3. Effectiveness in yielding total revenue requirements under the fair-return standard.
> 4. Revenue stability from year to year.
> 5. Stability of the rates themselves, with a minimum of unexpected changes seriously adverse to existing customers. (Compare "The best tax is an old tax.")
> 6. Fairness of the specific rates in the apportionment of total costs of service among the different consumers.
> 7. Avoidance of "undue discrimination" in rate relationships.
> 8. Efficiency of the rate classes and rate blocks in discouraging wasteful use of service while promoting all justified types and amounts of use:
>   (a) in the control of the total amounts of service supplied by the company;

> (b) in the control of the relative uses of alternative types of service (on-peak versus off-peak electricity, Pullman travel versus coach travel, single-party telephone service versus service from a multi-party line, etc.).
>
> [Board Decision, March 31, 2005, p. 14]

[7] The Board continues to make its decisions in accordance with the *Act*, and the principles noted above.

[8] At the commencement of the public hearing on September 15, 2008, NSPI notified the Board it had reached a Settlement Agreement (the "Agreement"), which was endorsed by most of the formal intervenors, including all who filed evidence in this proceeding. The Board adjourned the hearing to provide an opportunity to all parties to review the document, and when the hearing reconvened on September 18, 2008, additional specific information regarding the impact of the Agreement (i.e., the revenue to cost ("R/C") ratios and proposed rate increases) was filed by NSPI[2].

3.0 SETTLEMENT AGREEMENT

3.1 The Board's approach with respect to this Settlement Agreement

[9] Several parties discussed the approach the Board should take in considering the Agreement. NSPI, in its final submission, stated:

[2] Exhibit N-69

The Board must consider whether the adoption of the Settlement Agreement is in the public interest. The Board has recently considered the public interest in its approval of the FAM Settlement Agreement (P-887) and of the DSM Settlement Agreement (P-884).

In *re Sale of Assets of Kentville Electric Commission* [1998] N.S.U.A.R.B. No. 100, Board Counsel made submissions on the issue of public interest, which the Board quoted in its decision. The Board has dealt with "public interest" in earlier decisions, but because of the broad nature of that concept has not formulated a precise definition. Essentially, the Board must consider broadly the effect of the request, and weigh the benefits and risks to both the utility and customers.

[NSPI Closing Submission, pp. 1-2]

[10] Avon *et al.* made the following observation:

The process leading up to a settlement involved compromises by all participants. The Board should feel confident that a Settlement Agreement which has the support of all customer classes - from the largest electrical consumers to the residentials should be given significant weight. The diversity of interests is not only as between NSPI and its customers but also among customer classes as well. Despite these competing interests, the parties were able to arrive at a negotiated settlement respecting both the revenue requirement and cost allocation.

[Avon *et al.* Final Submission, p. 1]

[11] The CA, in a thoughtful generic submission on settlement, stated as follows:

A settlement is a consensual solution. It of necessity involves a compromise between the optimal outcomes sought by the contending parties. The CA was tempted to reject the settlement and leave it to the UARB to determine the outcome after a contested hearing. That would have the advantage of the public seeing the requested increase resisted vigorously with the result being imposed by the UARB. There would be no suspicions of "deals" or of NSPI somehow manipulating to achieve its profit-seeking goals. There is some merit to forcing a contested hearing when the increase being sought is high. But if the most likely outcome of a contested hearing would be no better than could be achieved by negotiation and consensus, common sense mandates that the consensus be put to the UARB for review and possible acceptance.

There is the further consideration that ideally NSPI and its customers can move to a relationship of complete disclosure and candor that will allow more matters to be resolved by discussion and consensus with a diminished need for expensive and contentious adversarial hearings. The CA does not say that relationship has happened, but progress is being made.

[CA Final Submission, p. 3]

[12] The Board's *Regulatory Rules* facilitate settlement discussions. The Board welcomes and appreciates the efforts of parties to, in good faith, settle issues, even where, as sometimes happens, a settlement cannot be ultimately achieved.

[13] Where, as here, the Agreement is supported by representatives of all of the customer classes, the Board can have confidence that the Agreement is in the public interest.

[14] Customers of NSPI and members of the public are, perhaps understandably, wary of the settlement process. Many of those customers and members of the public may not appreciate that by the time the hearing commences 80% of the rate hearing process has already happened. NSPI filed extensive evidence, as required by the Board, to support its rate request. Interested parties and Board Staff asked NSPI many hundreds of written questions (Information Requests), to which responses were filed.

[15] All of the parties who chose to do so filed evidence, including expert evidence. Written questions (Information Requests) have been asked of and answered by interested parties who filed evidence. NSPI filed reply evidence. As noted, all of this happened before the hearing was scheduled to begin so that the parties and the Board are well informed about the case in advance of any oral public hearing.

[16] The public can rest assured that the Board Members hearing the matter have also thoroughly reviewed all of the material in advance of coming to a decision as to whether to approve the Agreement as being in the public interest.

[17] Settlement agreements, while relatively new in regulatory matters before the Board, are common in the litigation process. Within the Board's adjudicative mandate, for example, assessment appeals, planning appeals and other matters are often settled. In the civil courts of Nova Scotia, a much higher percentage of cases are settled than go to trial.

[18] That is not to say that the Board would hesitate to reject a settlement agreement it did not consider to be in the public interest, however, it should be understood that a properly supported settlement is a success of the regulatory process, not a failure.

3.2 The Settlement Agreement in the present case

[19] The Agreement reads as follows:

2009 General Rate Application Settlement Agreement

Whereas Nova Scotia Power Inc (NSPI) filed an Application for a General Rate Increase with the Nova Scotia Utility and Review Board (UARB) on May 27, 2008, proposing an increase in revenue requirement of $132.5 million and seeking an average rate increase of 11.9% effective January 1, 2009 (the "Application");

And whereas NSPI, New Page Port Hawkesbury Ltd. and Bowater Mersey Paper Company Ltd. (NPB), the Avon group (Avon), the Consumer Advocate (CA), the Municipal Electric Utilities of Nova Scotia Cooperative (MEUNSC) and the Department of Energy (DOE) have worked together with staff and consultants to the UARB to develop and implement a Fuel Adjustment Mechanism (FAM) for NSPI;

And whereas the Parties to this Agreement agree that the FAM will be ready to operate effective January 1, 2009 and NSPI will be ready for the FAM; And whereas NSPI is forecasting revenue requirement increases in the 2009 test year consisting primarily of fuel expenses and other costs, which have been disclosed in the Application and examined during the course of the Application pre-hearing discovery processes;

And whereas the Parties desire to resolve the Application, and to continue to work collaboratively to accomplish objectives that will benefit customers over the long term;

The signatories to this agreement hereby agree:

FAM and Fuel Related Items:

1. The FAM, including supporting documentation, is substantially complete, and there are no remaining issues that would cause any of the Parties to object to the operation of the FAM on January 1, 2009.

2. The Parties request that the UARB approve the FAM to commence on January 1, 2009, as an outcome of this General Rate Application and in lieu of the formal schedule for approval previously established by the UARB in its December 10, 2007 Decision.

3. The Parties will finalize the FAM documentation and NSPI will file a final proposed Tariff and Plan of Administration no later than October 15, 2008 for UARB approval. Any matters regarding the FAM documentation which remain outstanding between the Parties will be determined by the UARB, and Parties other than NSPI, including UARB consultants, shall file any comments on outstanding issues with the UARB by October 22, 2008. Other aspects of FAM implementation, as directed by the UARB in its December 10, 2007 Decision, will continue throughout 2008.

4. The Parties agree that the Base Cost of Fuel in rates will increase by $75 million and will be set in the amount of $545 million, (and adjusted for the FAM per Schedule 2, Appendix A of the FAM Plan of Administration to calculate the average cost per MWh, of $42.41 per MWh, and for each customer class), and that NSPI will recover the Base Cost of Fuel from customers in 2009 rates that are effective January 1, 2009.

5. NSPI has advised the Parties, each of whom hereby specifically acknowledges, that NSPI forecasts fuel costs in 2009 to increase by approximately $82 million above the amount requested to be incorporated into rates in NSPI's Application as filed. The actual amount of the fuel adjustment for 2010 will be determined per the FAM process, and Parties will retain their rights to investigate and litigate these fuel amounts in a hearing before the UARB as part of the FAM process.

6. The Parties agree that recovery of up to $8 Million of the 2008 natural gas sales margin deferral (subject to a reduction of this deferral amount in the event NSPI would otherwise earn in excess of 9.8% ROE in 2008), as approved by the UARB on July 23, 2007, will be recovered in the first FAM adjustment, including carrying charges from January 1, 2009, and shall not be a rate base item.

7. The Parties agree that for the purposes of calculating the FAM incentive, the Base Cost of Fuel in rates will be assumed to be re-set at $590 million (as adjusted per Schedule 2, Appendix A of the FAM Plan of Administration to calculate an average cost per MWh, of $45.95 per MWh, and for each customer class) until the Base Cost of Fuel is again actually re-set, either pursuant to the FAM or during a future General Rate Application.

8. The Parties acknowledge and advise the UARB that an outcome of delayed recovery of a portion of NSPI's forecasted increased 2009 fuel costs described in paragraph 5 above is that the first FAM adjustment will most likely result in an increased recovery from customers beginning on January 1, 2010.

Other Costs and Items:

9. Beginning on January 1, 2009, the revenue for rate setting purposes for each customer class shall be as set out in Schedule 1 attached. The increase in revenue requirement will be $104.2 million, comprised of the $75 million noted in paragraph 4 and the $29.2 million noted in paragraph 10.

10. NSPI has advised the Parties and the UARB of non-fuel cost increases in the 2009 test year. The Parties agree to an increase in revenue requirement of $29.2 million to recover non-fuel cost increases and which increase is in addition to the fuel cost recovery provided above in paragraph 4.

11. The non-fuel increase incorporates reductions in NSPI's forecasted 2009 revenue requirement, compared to the Application, in the non-fuel related areas of the Application, including a reduction of $3.4 million in Vegetation Management costs, extension of the amortization period for Demand Side Management costs to six years to reduce revenue requirement by $3.6 million, removal of the 2008 fuel deferral from rate base as noted above in paragraph 6, and other OM&G and rate base reductions in the total amount of $6.0 million. This increase incorporates the ROE reduction requested in the Application. NSPI's proposed rates and proof of revenue for 2009 shall be as set out in Schedule I attached.

12. The revenue requirement increase will be allocated proportionately to each customer class, on an "across the board" basis, with revenue from each customer class increasing by the same percentage as other customer classes in order to recover in total the increased revenue requirement.

a. This is a one time allocation approach and does not create any precedent for future cases, including the adjustments noted below in sub-paragraphs b) and c).

b. Subsequent to such allocation, the Unmetered class rate and revenue will be reduced to the point where the Unmetered class revenue to cost ratio would be 1.00. This reduction in revenue will not be recovered from other customers.

c. A further adjustment will be made so that the group of Large Industrial Class customers who receive the Interruptible credit will see the same average rate increase as other classes. This will be accomplished by applying a temporary equalization adjustment. The adjustment will be cost neutral to other classes and will not affect the interruptible credit value.

13. The Parties also acknowledge that their agreement to the non-fuel average revenue increase should not be construed as an acceptance by any of the Parties of any allocation or amortization of future DSM or other costs to such Parties, and that the average increase in this Agreement shall not be adjusted on account of any future DSM or other decision by the UARB. In particular, the Parties may take any position on DSM cost recovery and allocation in respect of post-2009 DSM programs and costs.

14. Unless revised by the terms of this Agreement, all other aspects of NSPI's Application are adopted for the purposes of this Agreement only, and this Agreement does

not preclude NSPI or any of the other Parties from taking any positions in future regulatory proceedings or otherwise.

15. NSPI will provide a Cost of Service Study in electronic form to Parties, subject to appropriate confidentiality undertakings and on condition that the model not be used for commercial purposes. Such information shall likewise be available in electronic form for subsequent proceedings.

All of which is hereby agreed this 15th day of September, 2008.

2009 General Rate Application
Settlement Agreement
Schedule 1

Schedule 1 (page 1)	Current Revenue	Proposed Revenue	Revenue Increase	% Revenue Increase	R/C Ratios
ABOVE-THE-LINE CLASSES					
Residential	**$496.3**	**$542.8**	**$46.5**	**9.4%**	**98.9%**
Commercial					
Small General	$30.7	$33.6	$2.9	9.4%	102.3%
General Demand	$252.8	$276.6	$23.7	9.4%	107.2%
Large General	$34.8	$38.0	$3.3	9.4%	98.7%
Total Commercial	**$318.3**	**$348.2**	**$29.8**	**9.4%**	**105.7%**
Industrial					
Small Industrial	$23.9	$26.1	$2.2	9.4%	102.0%
Medium Industrial	$48.6	$53.2	$4.6	9.4%	100.8%
Large Industrial	$65.0	$71.1	$6.1	9.4%	97.5%
ELI 2P-RTP	$119.2	$130.3	$11.2	9.4%	91.0%
Total Industrial	**$256.6**	**$280.6**	**$24.1**	**9.4%**	**95.3%**
Other					
Municipal	$16.1	$17.6	$1.5	9.4%	99.8%
Unmetered	$24.0	$25.2	$1.2	5.0%	100.0%
Total Other	**$40.1**	**$42.8**	**$2.7**	**6.8%**	**99.9%**
Total Above-the-line classes	**$1,111.3**	**$1,214.5**	**$103.2**	**9.3%**	**99.9%**
Below-the-line	**$21.2**	**$22.1**	**$0.9**	**4.5%**	
Exports	**$4.6**	**$4.6**	**$0.0**	**0.0%**	
Miscellaneous	**$14.2**	**$14.7**	**$0.4**	**2.9%**	
Total Revenue	**$1,151.3**	**$1,255.8**	**$104.5**	**9.1%**	

[Exhibit N-69]

[20] The Agreement presented to the Board has the support of representatives of all of the customer classes including the domestic class. The Board's consultants Dr. John Stutz and Mr. John Antonuk recommend its approval.

[21] As noted by NPB, not only were most of the parties to the Agreement represented by experienced counsel, they also had experienced expert advisors with respect to the various issues before the Board including fuel, rates, OM&G, etc.

[22] For the reasons explained below, and having concluded that it is in the public interest, the Board approves the Agreement.

4.0 FUEL

4.1 Fuel Cost

[23] NSPI, in its application, stated that:

> Current rates include fuel and purchased power expenses of $470 million. The test year fuel cost requested in this Application is $559.5 million, or $89.5 million higher than the amount included in the 2007 Compliance Filing (2007C)...
>
> [Exhibit N-1(a), p. 9]

[24] The majority of intervenors initially questioned NSPI's estimate of 2009 fuel cost on grounds such as generation cost allocation, load forecast, prioritization of generation facilities, currency exchange, Cost of Service Study, etc.

[25] Liberty, however, in their evidence recommended that:

> NSPI's fuel expense estimate for the Rate Year (2009) as filed should be used to set base rates, because its actual costs, even after considering appropriate offsets are reasonably certain to equal or exceed the amount set forth in the filing...
>
> [Exhibit N-30, pp. 6-7]

[26] On September 5, 2008, NSPI filed an update to its 2009 fuel cost:

> This forecast uses the fuel forecasting methodology collaboratively developed by NSPI, Liberty Consulting Group, NPB and other Intervenors in the FAM process. An adjustment was made to the FAM methodology to reflect the outstanding matter related to import energy and combustion turbine usage identified for resolution in the methodology (noted in the August 7 Evidence of Liberty). The result of this forecast is that the estimated cost for fuel and purchased power in 2009 is now $641.7 million. This is $82.2 million higher than the forecast contained in NSPI's initial Application...
>
> [Exhibit N-67, p.1]

[27] The Agreement deals with the 2009 fuel cost as follows:

> 4. The Parties agree that the Base Cost of Fuel in rates will increase by $75 million and will be set in the amount of $545 million, (and adjusted for the FAM per Schedule 2, Appendix A of the FAM Plan of Administration to calculate the average cost per MWh, of $42.41 per MWh, and for each customer class), and that NSPI will recover the Base Cost of Fuel from customers in 2009 rates that are effective January 1, 2009.
>
> 5. NSPI has advised the Parties, each of whom hereby specifically acknowledges, that NSPI forecasts fuel costs in 2009 to increase by approximately $82 million above the amount requested to be incorporated into rates in NSPI's Application as filed. The actual amount of the fuel adjustment for 2010 will be determined per the FAM process, and Parties will retain their rights to investigate and litigate these fuel amounts in a hearing before the UARB as part of the FAM process.
>
> 6. The Parties agree that recovery of up to $8 Million of the 2008 natural gas sales margin deferral (subject to a reduction of this deferral amount in the event NSPI would otherwise earn in excess of 9.8% ROE in 2008), as approved by the UARB on July 23, 2007, will be recovered in the first FAM adjustment, including carrying charges from January 1, 2009, and shall not be a rate base item.
>
> [Exhibit N-69, p. 2]

[28] The Agreement proposes that the base fuel cost for 2009 rate making purposes be set at $545 million, an increase of $75 million over the 2007 compliance fuel cost. As per NSPI's update[3], the actual cost of fuel for 2009 may be $82 million more than the $559.5 million proposed in the application. The difference between the base fuel cost for 2009 of $545 million and actual fuel cost for 2009 is proposed to be recovered through the proposed Fuel Adjustment Mechanism starting on January 1, 2010, as discussed later

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[3] Exhibit N-67

in this decision. If fuel costs were to drop below estimates, that would be credited to customers under the Fuel Adjustment Mechanism.

[29] NSPI uses coal to produce 71% of its energy requirement[4]. In addition, NSPI purchases its fuel using a portfolio strategy previously approved by the Board. The Board in its decision dated March 31, 2005[5] directed NSPI to use a short, medium and long term fuel procurement strategy to protect customers from short term price fluctuation.

[30] Recently the price of oil has come down in world markets. However, NSPI utilizes very little heavy fuel oil to produce electricity. The world price of coal, which is NSPI's dominant fuel to produce electricity, has not fallen nearly as dramatically. The effect of any decrease in coal prices will be delayed due to the use of the fuel procurement strategy, which includes long term commitments already in place prior to the decrease in world fuel prices.

4.1.1 Findings

[31] The Board has considered the evidence filed relating to the fuel cost. The evidence before the Board is that the actual cost of fuel most likely will exceed the proposed base cost for 2009 of $545 million. NSPI estimates that the actual cost may be as high as $640 million[6].

[32] The Board approves the proposed fuel cost for 2009 as noted in the Agreement.

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[4] Exhibit N-1 (a), p. 13

[5] 2005 NSUARB 27

[6] NSPI update dated September 5, 2008

4.2 Future Natural Gas Requirements and Purchased Power

[33] Liberty, in its Statement, raised two issues for the Board's consideration:

> ... We therefore would like to underscore two points of future vigilance suggested by our testimony, as NSPI continues to pursue efforts to minimize fuel costs. One particularly notable feature of both the original and updated forecasts is that NSPI now expects that the dual-fuel steam units at Tuft's Cove will run essentially entirely on gas in 2009. That places NSPI in a different situation from what has been experienced in the past, when large amounts of natural gas were available for resale in a manner that produced large cost offsets to the benefit of customers.
>
> NSPI thus will not have the same opportunities in 2009 to resell natural gas that it has had in the past, unless oil prices move the great distance required to come more into line with their historical relationship to natural gas. In any event, NSPI's opportunities to reduce costs through the sale of natural gas are fast approaching an end. NSPI's primary gas-supply contract has only two years remaining. We therefore want to re-emphasize the point made in our evidence that NSPI continues not to have a strong track record of dealing with gas suppliers other than its affiliate. The physical and contractual aspects of the gas-supply relationships that NSPI will have to cope with in the not-too-distant future are complex, will take substantial time to conclude, and are generally undertaken by utilities having broader relationships with participants in the marketplace. Consequently, we underscore the need for the Company to be identifying its alternatives and developing a strategy for pursuing them aggressively now. We believe it is very important for NSPI to keep the Board and its stakeholders apprised of its progress in this important area as the next months unfold.
>
> Another matter our evidence addressed is the value that imports of electric power produce for NSPI's customers. Such imports have grown rapidly over the last several years. NSPI acknowledges the attraction of low-cost power imports, but points to practical limits that constrain its ability to make more comparatively economical imports. One example is the transmission capacity connecting Nova Scotia to New Brunswick. Liberty believes that it will be important in the near term for NSPI to analyze and pursue all measures that may serve at reasonable cost to eliminate barriers to making economical, off-system electricity purchases, and to demonstrate to the Board that it is doing so.
>
> [Liberty Statement, Exhibit N-74, p. 2]

[34] In response to Board Counsel's question, Mr. Antonuk stated:

> ... We do, however, want to state that whether or not the settlement is accepted we continue to believe that a couple of very important issues remain for NSPI to focus on as markets continue, as we expect them, to be volatile into the future. We think it's important to keep in mind matters such as replacing natural gas supply when the current agreement with Shell runs out in the very short term, and ensuring that NSPI's system can accommodate full participation in off-system electricity purchases will be important in securing economical and continuous supply in future uncertain energy markets. So, we look forward to hearing more in the coming months about the company's plans in those two important areas.
>
> [Transcript, September 18, 2008, pp. 129-130]

[35] Rob Bennett, President and CEO of NSPI, shared Liberty's comments in his Opening Statement:

> ... There's certainly more to do in terms of exploring the development of new transmission infrastructure. This will enable the aspirations we have for renewable energy, which we know are shared by Nova Scotians.
>
> [NSPI Opening Statement, Exhibit N-73, p. 2]

[36] The Honourable Stephen McNeil, MLA, Leader of the Nova Scotia Liberal Party, also noted the importance of interprovincial transmission capacity.

4.2.1 Findings

[37] The Board accepts Liberty's comments with respect to the sale of natural gas contracts. NSPI purchases its natural gas under contract from its suppliers and sells the surplus quantity to third parties, after its use of a portion of the supply to generate power. In a majority of cases, NSPI has used Emera Energy, an affiliate company, to purchase its surplus natural gas and to sell it. The Board understands Liberty's concern that NSPI has not built enough market contact and transparency to ensure that its future gas procurement will be competitively priced.

[38] The Board directs NSPI to review Liberty's comments with respect to future natural gas purchases and file a report with the Board, no later than April 30, 2009, on how it plans to address this concern.

[39] The Board also accepts Liberty's comments on the second issue relating to NSPI's transmission capacity to import and export power. NSPI is directed to consider this issue and file a report with the Board no later than June 30, 2009, outlining its plans for improvements to its transmission capacity to facilitate power imports. The Board is mindful

that NSPI has, in the 2008 ACE Plan, included a request for capital expenditures related to this issue.

5.0 OM&G

5.1 Overview

[40] In its original application, NSPI requested a $20.6 million increase in Operating, Maintenance and General Expenses (“OM&G”) for the 2009 test year.

[41] As a result of the Agreement, the proposed increase for OM&G costs was reduced to $15.8 million. The $4.8 million reduction is comprised of the following components: a $3.4 million decrease from the amount originally proposed for vegetation management, a reduction of $1.0 million to the projected net bad debt expense and a $400,000 reduction for insurance costs.

[42] As noted above, most of the formal intervenors joined as signatories to the Agreement, which specifically addressed the proposed $3.4 million reduction for vegetation management from the amount originally requested in the rate application. However, at the hearing, this proposed reduction was opposed by the NDP Caucus.

[43] Mr. Steele also expressed concerns during the hearing with respect to executive compensation, an issue also identified in many letters received by the Board from members of the public.

[44] Moreover, over the past two years leading to the present rate application, NSPI has undergone an operations review ordered by the Board with respect to its organizational structure and its level of OM&G expenditures.

[45] The issues of vegetation management, the operations review, and executive compensation are canvassed more fully below.

5.2 Vegetation Management

5.2.1 Submissions - NSPI

[46] In his Opening Statement, delivered at the commencement of the hearing, Mr. Bennett submitted that the proposed expenditure increase for vegetation management should be approved by the Board:

> I want to underline the importance about increasing spending on tree trimming and vegetation management. We are taking important steps in this program.
>
> Stable and reliable transmission and distribution systems are rightfully an expectation of this Board. It's also the expectation of regulatory bodies that oversee the bulk power system. For example, the North American Electric Reliability Corporation - or NERC - has recently enhanced transmission line tree trimming requirements.
>
> [NSPI Opening Statement, Exhibit N-73]

[47] NSPI reasserted its position in its Closing Submission, citing Mr. Bennett's testimony at the hearing about vegetation management and its impact upon reliability:

> When Mr. Steele asked about vegetation management spending and its relationship to reliability, Mr. Bennett explained:
>
>> In fact, the decision to change the degree of funding in the vegetation management program was arrived at with a balanced consideration for all of the needs of our customers and reliability going forward. That includes the need to sustain our workforce through succession planning and other operational activities in the business that require funding.
>>
>> I believe that we've achieved that balance of a significant level of additional funding in the vegetation program. $3.6 million more than is being spent today will definitely increase the reliability of the system. It will allow us to execute programs that will effectively storm-harden the system, and at the same time the settlement agreement allows us to, in a balanced way, take on those other challenges that have long-term beneficial impacts, such as sustaining, developing and training our workforce to deal with our customers' needs in the future.
>>
>> So, I'm very comfortable that the level of investment that we will be making will make a difference. I should also note that the choice of $3.6 million was

> arrived at because it had been reviewed in the past by various consultants with the Board and there was an understanding of that level of additional investment as being important and effective.

Importantly, all parties to the Settlement Agreement consider that the increase in vegetation management expenditure of $3.6 million is a reasonable and appropriate enhancement. All parties are also aware that, in future, it may be necessary to consider the additional investment that was proposed by NSPI in this proceeding but will not be implemented.

[NSPI Closing Submission, September 25, 2008, pp. 3-4]

5.2.2 Submissions - NDP Caucus

[48] The NDP Caucus was the only formal intervenor who raised this issue at the hearing. In his closing argument, Mr. Steele stated:

> With respect to system reliability or what I might refer to as outages, Nova Scotia Power has this year proposed an extensive program of vegetation management in order to improve system reliability. The company's evidence appears to acknowledge that it is possible for the company to raise its game on vegetation management to another level so that the level of outages caused by vegetation contact can get down to the levels already achieved by New Brunswick Power. But we note the settlement agreement contains a cut of 3.4 million dollars from this vegetation management program. A program designed to address specifically and directly a major concern to the public has been cut as part of the settlement agreement.
>
> For that reason, it is difficult to see how the company can possibly achieve its goals with respect to outages caused by vegetation. We believe it is regrettable that of all the items that could have been picked to find the necessary savings that that item has been picked.
>
> [Transcript, September 18, 2008, pp. 149-150]

[49] He concluded:

> ... It may be that the global amount of cost savings have been agreed upon by the signatories to the settlement agreement but it seems to us fair and we recommend to the Board that the expense for vegetation management be restored and that the difference be made up by taking at least some of that amount from executive compensation. That may be a symbolic move by the company but I believe it would be a very important one.
>
> [Transcript, September 18, 2008, p. 151]

5.2.3 Findings

[50] With respect to vegetation management, NSPI is requesting a net increase in proposed expenditures.

[51] In its original rate application, NSPI requested an increase of $7.0 million over the prior year, which would have amounted to a total of $13.8 million for 2009. Thus, despite the $3.4 million reduction resulting from the Agreement, an overall net increase in vegetation management activity will be achieved. Vegetation management expenses will increase to $10.4 million for the 2009 test year, a net increase of $3.6 million over the last compliance filing.

[52] The Board notes the testimony of Mr. Bennett, who stated that increased activity in vegetation management will enhance service reliability for NSPI's customers.

[53] Further, the Board is also mindful that the Agreement specifically addressed the issue of vegetation management. The formal intervenors who signed the Agreement represent all rate classes of NSPI's customers.

[54] Taking into account all of the evidence, the Board is satisfied that the proposed total expenditure of $10.4 million for vegetation management (an increase of $3.6 million), as contemplated under the terms of the Agreement, is reasonable and appropriate in the circumstances.

5.3 Operations Review

5.3.1 Introduction

[55] In its decision dated March 10, 2006, the Board ordered a review of NSPI's operations:

> The Board directs that an operations review be carried out on NSPI's operations. The review shall encompass a detailed examination of NSPI's organizational structure, its level of OM&G expenditures, and any other pertinent areas which may come to light, with a view to determining whether cost savings and operational efficiencies can be achieved. NSPI is directed to prepare the terms of reference for the operations review and submit them to the Board for approval by May 31, 2006. The terms of reference shall also set out the procedures for identifying and selecting the firm or person who will perform the operations review.
>
> [Board Order, P-882, April 12, 2006, Schedule "C"]

[56] In response to this direction, NSPI filed a report prepared by Accenture Inc. on January 8, 2007 (the "Accenture Report").

[57] The Board ordered that the Accenture Report be filed in advance of the 2007 rate hearing. In that Rate Decision, the Board directed that interested stakeholders provide input on the review process:

> [54] The Board has determined that the process concerning the operations review will continue following this decision and that interested stakeholders will have an opportunity to participate - the CA already has. The Board is interested in soliciting views of parties to the rate case proceeding with respect to the appropriate course of action. Accordingly, the Board will provide an opportunity for input concerning the desirability of a further review of NSPI's operations as suggested by the CA or whether parties are satisfied that Accenture has met the Board's terms of reference.
>
> [Board Decision, February 5, 2007, P-886, pp. 24-25]

[58] Following its review, the Board determined that the scope of the Accenture Report was much narrower than the terms of reference developed for the operations review. It concluded that the Report's focus was limited to the Corporate Services component of NSPI's overall OM&G functions (i.e., which comprised less than 20% of the total OM&G costs).

[59] Accordingly, in a letter dated May 18, 2007, the Board directed that it would engage an independent expert to carry out a review of the sectors of NSPI's OM&G costs not covered in the Accenture Report, including executive compensation. It retained Kaiser Associates to conduct the operations review and the findings were contained in a report dated June 19, 2008 (the "Kaiser Report"). Kaiser Associates released a separate report with respect to executive compensation on June 16, 2008 ("Kaiser's Executive Compensation Review"), which is canvassed in greater detail in the next section of this decision.

[60] The Kaiser Report concluded:

> Following its research and analysis presented in the detailed findings, Kaiser believes that NSPI is a well managed utility that operates at a lower OM&G cost basis than its comparators when adjusted for its scale. NSPI has shown a rise in costs from 2004-2006, driven by investments in Emergency Services Restoration, vegetation management and a onetime adjustment made for pension expense. These expenses were reviewed and approved by the UARB. In addition NSPI was affected by external factors, for example: particularly adverse weather in the province; and, a major customer was not in service in 2006, depressing revenue. Preliminary data for 2007 shows OM&G expenditures are projected to remain flat. . . .
>
> [Kaiser Report, June 19, 2008, Exhibit N-5, p. i]

[61] However, the Kaiser Report identified NSPI's Work Management System as an area of concern:

> Work Management System (WMS) - Rather than use an integrated WMS, NSPI relies on a number of different WMSs aligned by function (customer operations, maintenance, etc.) leading to lack of coordination and sub-optimal utilization. NSPI management is aware of this problem and is taking steps to address the WMS; NSPI management has a $6-7M application for a transmission and distribution WMS upgrade in its 2008 capital budget. WMS is a key area of study in benchmarking and a critical recommendation. Although the integrated nature of WMS means it affects multiple areas of company operations, Kaiser has presented its findings and recommendations related to WMS in the Customer Operations section (pages 75-86). As Kaiser has cautioned the UARB, there are significant efficiencies to be gained, however, implementing an enterprise-wide, integrated WMS is a substantial investment which carries significant risk and will require the commitment of personnel resources.
>
> [Kaiser Report, June 19, 2008, Exhibit N-5, p. ii]

[62] The organizational design of NSPI's existing power production plants was also identified as an area of improvement:

> Organizational Design - NSPI does not utilize a standard organizational design across its existing plants. Due to attrition in its Point Tupper plant, NSPI is testing an alternate organizational structure, which after evaluation may be expanded for use in other facilities. This structure is much less hierarchical in nature, therefore relies less on highly experienced supervisory staff. NSPI uses a distributed model in organizing its plants, allowing for operational flexibility but also possibly creating redundancies in engineering and support functions.
>
> [Kaiser Report, June 19, 2008, Exhibit N-5, p. ii]

[63] The Kaiser Report recommended:

> **[Organizational] Design**
>
> Research indicates that NSPI has a greater number of direct reports as well as less accountability in plants, particularly in the maintenance and planning areas. NSPI should develop a plan for the board identifying its [organizational] design and workforce plan over the coming years as part of its succession planning initiative. The plan should address some of the standardization of organization and centralization issues raised in the detailed findings.
>
> [Kaiser Report, June 19, 2008, Exhibit N-5, p. iv]

5.3.2 Submissions - NSPI

[64] In its application, NSPI listed a number of reviews undertaken with respect to OM&G costs. It stated that the findings of these reviews have been generally supportive of NSPI's management of OM&G expenses[7]. Further, NSPI stated that, in constant dollars, it has reduced OM&G expenditures since 2000, through effective cost control mechanisms.

[65] In its Reply Evidence, NSPI questioned a number of the findings in the Kaiser Report, including recommendations with respect to website and Interactive Voice Response System automation, meter reading and customer service staffing levels. The

[7] Exhibit N-1, p. 98

Board observes that most of these issues identified in the Kaiser Report were addressed and clarified during the Information Request process of this hearing.

5.3.3 Submissions - Intervenors

[66] The formal intervenors made no submissions at the hearing with respect to the OM&G operations review.

5.3.4 Findings

[67] As noted above, as a result of prior Rate Decisions, the Board ordered a comprehensive operations review of NSPI's organizational structure and its level of OM&G expenditures.

[68] The Kaiser Report concluded "that NSPI is a well managed utility that operates at a lower OM&G cost basis than its comparators when adjusted for its scale"[8]. Further, it observed "that NSPI compares favorably to the benchmark firms on OM&G expense when normalized by power generated, number of customers, number of employees and amount of revenue generated"[9].

[69] Stakeholders provided their input with respect to the terms of reference of the operations review prior to the work undertaken by Kaiser Associates. The Kaiser Report was reviewed by the formal intervenors who participated in this hearing. While some of the intervenors submitted evidence suggesting reductions to certain aspects of NSPI's OM&G costs, the Board found no evidence that these intervenors challenged the Kaiser Report's

[8] Exhibit N-5, p. i

[9] Exhibit N-5, p. iii

conclusion that NSPI is "a well managed utility", which "compares favorably to the benchmark firms on OM&G expense when normalized [over a number of factors]".

[70] While NSPI, in its Reply Evidence, appeared to distance itself from some of the findings in the Kaiser Report, the Board interprets this Report as being favourable, in most respects, to NSPI's management of OM&G expenses.

[71] Taking all of the evidence into account, the Board accepts the findings of the Kaiser Report, as well as that of the Accenture Report, that NSPI's organizational structure is appropriate and its management of OM&G expenditures is reasonable.

[72] However, the Kaiser Report identifies NSPI's Work Management System as a recommended area of improvement, stating that an integrated system would improve coordination and efficiency. NSPI has committed to the implementation of a Work Management System with respect to its transmission and distribution operations. This new system will, according to NSPI, benefit NSPI's customers by the more efficient and timely handling of the "work order" process. Accordingly, the Board directs that NSPI advise the Board on the balance of the Kaiser Report's recommendation about extending an integrated Work Management System to the remainder of NSPI's operations. This report shall be filed no later than December 31, 2008.

[73] The Kaiser Report also recommends that NSPI develop a plan for the Board identifying NSPI's organizational design and workforce plan for its power production plants, as part of its succession planning initiative. NSPI is currently testing an alternate organizational structure at one of its plants. The Board directs that NSPI file a report on its progress no later than March 31, 2009. The Board also reserves the right to issue further directions on this issue.

5.4 Executive Compensation

5.4.1 Introduction

[74] The issue of executive compensation has been a matter which has arisen in this and prior rate applications.

[75] As a result of a much broader OM&G operations review (discussed in greater detail in the section above), the Board retained Kaiser Associates to conduct an Executive Compensation Review. As part of this review, Kaiser Associates examined a report prepared for NSPI by Towers Perrin, which is part of an annual reporting required by the Board.

[76] With respect to salary, NSPI sets its target salary at the 50th percentile mark within a group of comparable operators consisting of Canadian utilities. Towers Perrin concluded that NSPI executives (a management team comprised of 11 members) are paid compensation which is 11% lower than the median pay of the comparator utilities chosen for its review.

[77] However, applying changes which it recommends to Towers Perrin's methodology, Kaiser Associates concluded that NSPI's management team is actually paid a salary which is 0.5% higher than the median pay of the comparators it identified for its study. Further, Kaiser Associates found that the two highest paid NSPI executives earn about 41% more than executives at comparable utilities, while the two lowest paid executives make 24% and 37% less, respectively, than the benchmarks.

[78] Kaiser Associates recommends that future benchmarking studies of NSPI's executive compensation incorporate the following elements:

- Including the whole bonus figures in TTC [Total Target Cash] benchmarking;
- Include stock-based compensation as part of the analysis;
- Look at compensation position by position as well as in the aggregate;
- Factor in cost of living adjustments;
- Benchmark targets and achievement on executive scorecard against comparators.

[Kaiser Executive Compensation Review, Exhibit N-3, p.1]

[79] The review by Kaiser Associates revealed that the Towers Perrin report utilizes 50% of the target cash bonus for NSPI in its TTC benchmarking, compared to 100% for the comparator utilities. Further, Kaiser Associates concluded that the Towers Perrin analysis may be distorted based on differences in the regional cost of living factors which it applied.

[80] However, Kaiser Associates also found that NSPI executives tend to be better qualified in terms of tenure and professional degrees as compared to comparator utilities.

5.4.2. Submissions - NSPI

[81] In its Reply Evidence, NSPI stated that Kaiser's Executive Compensation Review, conducted on behalf of the Board, supports NSPI's view that it is paying reasonable compensation to its executive team. However, NSPI opposes the recommendations made by Kaiser Associates with respect to the methodology for reviewing executive compensation.

[82] NSPI further asserts that the issue of executive compensation was canvassed in this rate application. In its Closing Submission, it submitted:

> The parties to the Settlement Agreement have had access to the Kaiser Report on Executive Compensation from early in the proceeding - a Report that concludes that NSPI's executive compensation is on target at the mid-point of the range for comparable companies. IRs were posed on this topic by some parties and answered by NSPI. As Mr. Bennett explained, all

> areas of cost have been carefully examined and a balance has been achieved following careful consideration and input of stakeholders.
>
> [NSPI Closing Submission, September 25, 2008, p. 3]

5.4.3 Submissions - NDP Caucus

[83] During closing argument, Mr. Steele submitted:

> With respect to executive compensation, the settlement agreement ensures that this topic will go unexamined for at least another year. Even though it is the one topic that probably catches the public's attention the most. Although not everyone will claim to be an expert on rate setting for Nova Scotia Power, it is fair to say that just about everyone considers themselves to be an expert on incomes, whether that be a politician's income or a power executive's income. And while Nova Scotia Power compensation levels may be comparable to the mid range of other public utilities across Canada, the fact is that the levels of compensation are simply enormously out of keeping with other incomes in the Province of Nova Scotia. There must be a problem with the comparators.
>
> It is difficult for most Nova Scotians whose incomes are fixed or rising much more slowly than the cost of living to pay higher rates to a Nova Scotia company whose executives earn high six figure incomes, sometimes approaching a million dollars a year in salary, stock options and bonuses. We are mindful of the fact that Nova Scotia Power is free to pay their executives whatever they chose and we accept that the issue for this hearing is what portion of that executive compensation is included in the rate base to recover from rate payers. It may be that the global amount of cost savings have been agreed upon by the signatories to the settlement agreement but it seems to us fair and we recommend to the Board that the expense for vegetation management be restored and that the difference be made up by taking at least some of that amount from executive compensation. That may be a symbolic move by the company but I believe it would be a very important one.
>
> [Transcript, September 18, 2008, pp. 150-151]

5.4.4 Findings

[84] Taking into account all of the evidence, the Board finds that the compensation presently paid to NSPI's management team, as viewed on a collective basis, is not materially higher than that paid to comparable Canadian utilities, even adopting the methodology recommended by Kaiser Associates.

[85] The Board's obligation is to ensure that the OM&G expenses, including the collective compensation paid to managers as a group, is reasonable. Setting of individual

salaries within the envelope approved by the Board is a matter for NSPI's Board of Directors and Management. The Board observes that few, if any, issues have attracted public comment, often amounting to outrage, as did the salary paid to NSPI's highest paid executives. The Board trusts that NSPI's Board and Management have heard the message.

[86] The Board directs that NSPI continue to file an annual report with the Board respecting executive compensation. In the interim, and in light of this decision, NSPI should further consider the recommendations contained in Kaiser's Executive Compensation Review. The Board will continue to monitor this issue and it reserves the jurisdiction to issue further directions with respect to the reporting of executive compensation.

5.5 Conclusion - OM&G

[87] As noted above, taking into account all of the evidence (including but not limited to the evidentiary filings in this application, the Agreement, and the submissions of the parties), the Board approves a $15.8 million increase in OM&G expenses for the 2009 test year. This increase will result in a total OM&G expenditure of $216.6 million for the test year. The Board directs NSPI to incorporate the specific reductions to OM&G set out in the Agreement (i.e., those outlined for vegetation management, net bad debt expense and insurance costs).

[88] Further, based upon its consideration of the operations review, the Board concludes that NSPI's organizational structure is appropriate and that its management of OM&G expenses is reasonable. Subject to Work Order approval, NSPI will proceed with

the implementation of its Work Management System associated with its transmission and distribution operations. NSPI must report on the implementation of an integrated Work Management System to the remainder of its operations, no later than December 31, 2008. NSPI is also directed to continue the review of its organizational design for its existing power production plants and to provide a status report to the Board no later than March 31, 2009.

[89] With respect to executive compensation, the Board is satisfied that the overall level of compensation currently paid to NSPI's executive team is reasonable, when compared to other Canadian utilities used as comparators. NSPI must continue to file an annual report with the Board with respect to executive compensation. Further, the Board reserves the jurisdiction to issue further directions with respect to the reporting of executive compensation.

6.0 FINANCIAL ISSUES

6.1 Calculation of Return on Equity

[90] It became apparent during the examination of NSPI's Policy Panel that there was a difference of opinion between the Company and intervenors concerning the proper method of calculating return on equity in any given year. Briefly stated, the Company's position is that the calculation should be made on the basis of the company's actual equity, up to the 40% maximum approved by the Board (the maximum equity will increase to 45% under the Agreement). The intervenors' position, on the other hand, is that return on equity

should be calculated based on the common equity ratio of 37.5% approved by the Board "for rate making purposes".

[91] The Board adjourned the hearing to enable Board Counsel to consult with NSPI and the intervenors about this issue. When the hearing resumed, Board Counsel indicated that the parties were unable to reach agreement on the issue and that it should be resolved in a separate process. Board Counsel also noted that the issue would probably not crystallize until a determination has to be made whether the Company's regulated earnings in 2008 would represent a return on equity in excess of 9.8%.

[92] Neither the Company nor any of the intervenors requested that the Board deal with this issue in the context of the settlement and the issue was not mentioned in any of the post-hearing submissions. Obviously, the parties are prepared to have the Board approve the settlement without first resolving the return on equity calculation issue.

[93] Having regard to the foregoing, the Board will deal with the calculation issue in a subsequent proceeding which can be initiated at the request of the Company, any intervenor in the present proceeding or on the Board's own motion.

7.0 ABOVE THE LINE RATES

7.1 Revenue to cost ratios

[94] As noted, the Agreement proposes that the 9.3% increase in revenue be applied equally across all rate classes. As a result, the revenue to cost ratio for the General Demand class increases to 107.2% and the ELI 2P-RTP class reduces to 91%.

[95] The Board has, for many years, set a target revenue to cost ratio of 95% to 105% for all customer classes. The Agreement causes a weakening in the revenue to cost ratios from that approved in the last rate case.

[96] Dr. Stutz, in his Statement recommending approval of the Agreement, comments on this issue:

> ... The Agreement deals with two key areas raised in my prefiled evidence:
>
> - The increase in total revenues for 2009 has been reduced.
> - The spread in the increases in class revenue responsibility has been narrowed.
>
> [Stutz Statement, Exhibit N-75]

[97] He goes on to state:

> - As I explained in my evidence, rate stability justifies moving the increase for the ELI 2P-RTP rate toward the average, even at the "cost" of an R/C ratio below 95%.
>
> [Stutz Statement, Exhibit N-75]

[98] Dr. Stutz was questioned by Mr. Steele about the revenue to cost ratios:

> Q. Now, given that the rationale for the 95 percent ratio has not been borne out by experience, what justification can you offer for the revenue to cost ratio in that class actually going under 95 percent now if the settlement agreement is approved sitting at 91 percent?
>
> A. The rationale is provided in the last paragraph of my statement.
> There are a variety of considerations, one of which -- and the Board has taken this into account in many occasions before is rate stability.
> In my original evidence, I in fact proposed a revenue to cost ratio below 95 percent, because I felt it was important to preserve revenue stability.
>
> . . .
>
> Q. Would you agree with the proposition that the members of the commercial general class are paying more than their fair share?
>
> A. No, I have difficulty with that proposition. Because it suggests that the revenue to cost ratio is the sole indicator of what's fair. And I think fairness is a very broad concept.
> I think, for example, it's not fair if you're charging everyone 9 percent to give someone 18. So, I wouldn't agree with it.

> I would agree that [that] one indicator which the Board has relied on, to some extent, shows them outside the range the Board would like to se [see].
>
> [Transcript, September 18, 2007, pp. 137-138]

[99] Leanne Hachey, on behalf of the Canadian Federation of Independent Business, raised the concern that cross-subsidization is taking place if the revenue to cost ratio of one class is 91% and another class is 107%. She went on to say:

> . . . And why CFIB believes these inequities should be address[ed] is one, they do clearly contravene Bonbright's principles of public utility rates that the fairness of the specific rates and the apportionment of total cost of service among the different consumers the avoidance of undue discrimination and the efficiency of rate classes to discourage wasteful use of service.
>
> In other words, in layman's' terms everybody should pay their fare share. People shouldn't be paying the costs of others.
>
> [Transcript, September 17, 2008, p. 52]

[100] The CA also dealt with the issue in his written submission:

> The CA is concerned by the impact of the "across the board" increase on the revenue/cost ratios. That is a variance that is beyond the target zone of 95% to 105% set by the Board and represents a cross-subsidization that, the greater the variance, the greater difficulty in justification.
>
> However, the "across the board" allocation of the agreed-upon increase was a trade-off of a number of factors (see for example, the statement of Dr. Stutz dated September 18, 2008 exhibit N-75).
>
> Ultimately, each of the proponents of the Settlement Agreement was prepared to accept the impact on the revenue/cost ratios for the purposes of achieving the settlement.
>
> [CA Submission, September 25, 2008, p. 4]

7.2 Findings

[101] The Board is concerned about the weakening in revenue to cost ratios. However, the Board accepts the evidence of Dr. Stutz that revenue to cost ratios are not the sole indication of what is fair. Dr. Stutz noted in his evidence that one of the rate

classes had a disproportionate increase relative to the average increase. By virtue of the Agreement, he noted that the spread in increases in revenue class responsibility had been narrowed. He also spoke to the importance of rate stability which is, of course, one of Bonbright's criteria of a sound rate structure.

[102] As noted earlier in the decision, the Agreement enjoys the support of representatives of all of the customer classes. In the interest of achieving rate stability in this proceeding, the Board will permit the deterioration in revenue to class ratios caused by the Agreement.

[103] The Board anticipates, however, that at the next opportunity an adjustment to bring the two rate classifications back within the target range will be a priority.

8.0 DEMAND SIDE MANAGEMENT

8.1 Submissions

[104] NSPI in its application stated that:

> The parties agreed that NSPI would be the temporary DSM administrator and that early DSM program implementation by the Company would transition to the new administrator. The parties also agreed to changes to the timing and mix of DSM programs resulting in DSM spending of up to $3.1 million for 2008 and $9.8 million for 2009. The total expenditure over the 2008-2009 period was identified to be $12.9 million, the same level of investment as proposed for that period in the January 31, 2008 filing. Similarly, cumulative energy and demand savings targets would remain at 66 GWh and 8.8 MW respectively, the same as identified in the January 31, 2008 filing for the 2008-2009 period.
>
> The Settlement Agreement deferred UARB consideration of several issues that were not necessary to resolve during the April 2008 hearing. These issues included NSPI's proposal for a DSM Cost Recovery Mechanism, including a Lost Revenue Adjustment Mechanism (LRAM), performance indicators, incentives and penalties, and the proposed role and structure of the DSM Steering Committee and DSM Advisory Council. The Parties agreed that NSPI could defer DSM program expenditures in 2008 and 2009 for future recovery over a reasonable period determined by the Board, and that the appropriate allocation of costs among customer classes would be considered at the time of NSPI's request for recovery of the DSM expenditures.

[Exhibit N-1(a), p. 85]

[105] NSPI's application proposed to recover the 2008 and 2009 Demand Side Management (DSM) costs as follows:

> With the DSM investment as outlined in the DSM Settlement Agreement of $3.1 million for 2008 and $9.8 million for 2009, the total forecast expenditure over the 2008-2009 period is $12.9 million. NSPI is requesting recovery of this $12.9 million in equal increments over 2009, 2010 and 2011. NSPI proposes that $4.3 million be incorporated into the 2009 test year revenue requirement to reflect DSM costs. The recovery is further discussed in Section 5 of this Application.
>
> [Exhibit N-1(a), p. 86]

[106] The Agreement proposes that the amortization period for the 2008 and 2009 DSM costs be increased from three years to six years[10]. The net effect of this change is the reduction of the revenue requirement by $2.1 million in 2009[11].

8.2 Findings

[107] The Board has considered the amortization of the 2008 and 2009 DSM program costs over six years as proposed in the Agreement. Based on the size of rate increases proposed in the application, the Board agrees that it is reasonable to amortize these expenditures over a longer period than the three years proposed in the Application. The Board approves the amortization of DSM expenditures for 2008 and 2009 in the amount of $12.9 million over six years starting in 2009.

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[10] Exhibit –69, para. 11

[11] Exhibit N-72

9.0 NSPI EARNINGS

[108] Included in the List of Issues was "NSPI's 2008 earnings (including Q1)".

[109] The NSPI panel was asked about NSPI's 2008 earnings to date:

> A. (Blunden) Yes, so at an average rate base and of course with the equity thickness range and the ROE, it generally ranges from, for regulated purposes, somewheres around 100 [million dollars] to maybe 107, 108, or something like that, I think.
>
> Q. And Q1 earnings were 57.9?
>
> A. (Blunden) I believe that's correct, yes.
>
> Q. And Q2 earnings were 30 some odd?
>
> A. (Blunden) That's about right, yes.
>
> Q. And about that and despite the range, you still think you're going to hit the rate of return?
>
> A. (Blunden) Yes. As indicated by Mr. Bennett, we're expecting our fuel costs over the balance of the year to be 40 to $50,000,000 higher than they were in the same period of last year. So although optimistic, between the higher fuel prices and of course with the settlement agreement in place, the catch earnings we're expecting to be in the range from this, from where we sit today.
>
> [Transcript, September 18, 2008, p.104]

[110] For purposes of the 2008 fiscal year, as a result of the settlement agreement in the 2007 rate proceeding, voluntarily entered into by NSPI, earnings in excess of 9.8% will be applied to reduce two deferral accounts previously approved by the Board, and will not go to NSPI's shareholders. The first is a gas deferral in the amount of $8 million and the other a deferral of tax payable by NSPI with a balance of approximately $120 million.

[111] In the final submission on behalf of the NDP Caucus, the Board was asked to include in the final Order specific direction as to how excess profits, if any, in 2009 will be applied. Mr. Steele, on behalf of the NDP Caucus, went on to say:

> ...This will go a long way to reassure the public that at the same time they are paying significantly more that the company is not earning excess profits.
>
> [Transcript, September 18, 2008, p. 143]

[112] Under the *Act*, the Board is required to provide NSPI with the opportunity to earn a "reasonable rate of return on rate base". One of the key components of return on rate base is return on common equity. Pursuant to the Agreement, the allowed return on equity is between 9.1% and 9.6%, with rates being set at 9.35%.

[113] The Board's remedy, if NSPI is likely to over earn, is to step in and lower rates. The Board does not direct the application of excess earnings nor does it allow NSPI to retroactively collect from customers if it fails to earn its allowed rate of return. The implementation of a FAM will reduce the possibility of over earning as fuel is the largest of NSPI's costs that may vary significantly from forecast. Under the Fuel Adjustment Mechanism, any over earning related to fuel will be adjusted the following year.

[114] Nevertheless, the Board recognizes the fact that NSPI had unusually high earnings in Q1 and Q2 of 2008 at the same time it was seeking a 12.1% increase in rates, causing great consternation with the public, already very skeptical of NSPI's need for increased revenues.

[115] The Board will closely monitor NSPI's earnings in 2009, mindful of its power to step in and remedy an over earning situation by a reduction in rates.

10.0 FUEL ADJUSTMENT MECHANISM

10.1 Introduction

[116] In its rate application, NSPI requested implementation of a Fuel Adjustment Mechanism (FAM), effective January 1, 2009.

[117] In a decision dated December 10, 2007[12], the Board determined that the approval of a FAM is in the public interest, provided NSPI satisfies certain conditions prior to the implementation of the FAM. The preconditions imposed on NSPI by the Board included the filing of templates for monthly and annual information reports, the filing of a standard methodology for fuel forecasts and the filing of the FAM tariff documents. The Board directed NSPI to engage in a stakeholder process leading to its implementation, with a potential start date of January 1, 2009.

10.2 Submissions - NSPI

[118] NSPI submits that it has concluded its preparatory work in collaboration with its stakeholders and that it has reached the point where it is appropriate to implement the FAM, effective January 1, 2009. It submits that reporting, forecasting methodology and auditing requirements have been developed to allow the FAM to function properly.

[119] In its application, NSPI stated that it is appropriate to implement the FAM in the context of this general rate application:

> Under the FAM Framework, NSPI may reset base fuel costs through a General Rate Application (GRA) or every two years under a FAM. NSPI has forecast fuel costs for 2009 and has included increased fuel costs in this Application for 2009 rates. Through this General Rate Application, the Board would establish the initial Base Cost of Fuel for the FAM, and

[12] 2007 NSUARB 174

> incorporate the agreed reduction in Return on Equity effective with the implementation of the FAM.
>
> [NSPI Application, Exhibit N-1, p. 75]

[120] In its Reply Evidence, NSPI quoted comments contained in a letter dated June 23, 2008, from counsel for the Nova Scotia Department of Energy ("NSDOE") as indicative of the satisfaction of stakeholders with the consultative process undertaken for the development of the FAM:

> NSDOE has been a party to these discussions and, to date, is generally satisfied with the level of discourse and cooperation between NSPI, consultants, and stakeholders in the development of the FAM Plan of Administration, and the degree to which the principles of transparency and disclosure have been adhered to in relation to the administration of the fuel procurement policy and the proposed Plan of Administration for the FAM. The stakeholder process has facilitated settlement between NSPI, Board consultants, and stakeholders on key points in the POA [Plan of Administration].
>
> [NSPI Reply Evidence, Exhibit N-66, p. 9]

[121] Further, in his Opening Statement at the hearing[13], Mr. Bennett noted that the parties to the Agreement concur with the implementation of the FAM on January 1, 2009.

10.3 Submissions - Formal Intervenors

[122] The formal intervenors made no submissions at the hearing with respect to the implementation of the FAM. The Board observes that all signatories to the Agreement have agreed that the FAM should commence as of January 1, 2009.

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[13] Exhibit N-73

10.4 Submissions - Board Consultants

[123] Both Dr. Stutz and Mr. Antonuk indicated in their testimony at the hearing that they are satisfied the FAM is ready to be implemented.

[124] Dr. Stutz concluded in his Statement:

> Sections 1 to 8 of the Agreement deal with the Fuel Adjustment Mechanism (FAM). I agree that the FAM is substantially complete. The arrangements to finalize it provided in the Agreement are reasonable and appropriate. I know of no "unsettled issue" likely to prevent the FAM from coming into operation on January 1, 2009.
>
> [Stutz Statement, Exhibit N-75]

[125] In his testimony, Mr. Antonuk of Liberty indicated that it is appropriate to implement the FAM at this point and that three remaining issues can be resolved prior to its implementation:

> Yes. We believe that that is appropriate and it's difficult to see the settlement operating without the adoption of a FAM based on the way it's structured, and I think its structure clearly contemplates that. For our part, we're optimistic that while there remain issues to be resolved with respect to the FAM that those can and should, and I hope will, be resolved by the parties amicably. In the event they're not, I think they're the kinds of issues that are clearly amenable to prompt and effective resolution by the Board in any event. And those issues are three. One is the use of the API-4 index for performing the forecast of solid fuels. We're in agreement with the NSPI proposal to use that forecast but want that forecast use to be revisited in approximately a year. I believe we actually have agreement on that at the present time but it's not yet committed to writing. The second issue is that we are still working on language that addresses the degree to which there will or won't be consultation by the fuel auditor prior to the commencement of the fuel audits called for by the FAM, and the third is the method to be used for estimating import power sales, and on those latter two discussions -- or issues, discussions have been active among the FAM collaborative participants and I expect those discussions to continue and hopefully to be resolved in the immediate future.
>
> [Transcript, September 18, 2008, pp. 130-131]

10.5 Findings

[126] The implementation of the FAM received full support from the signatories to the Agreement, effective January 1, 2009. In clause 3 of the Agreement, the parties undertake to finalize the FAM documentation and NSPI agrees to file, for Board approval,

a final Tariff and Plan of Administration no later than October 15, 2008. Those documents have been filed and are under review by the Board. The Base Cost of Fuel is proposed to be set at $545 million in 2009 rates.

[127] Further, the Board observes that implementation of the FAM was not opposed by the formal intervenors who did not sign the Agreement.

[128] In their testimony at the hearing, Dr. Stutz and Mr. Antonuk, the Board's consultants, agreed that it was appropriate to implement the FAM at this point. While a few points remain outstanding, they are confident that any such items can be resolved prior to the proposed implementation date.

[129] In this regard, the Board observes that the development of the FAM has followed an extensive collaborative process between NSPI and its stakeholders. The Board's consultants were also involved throughout the entire process. All parties involved in this consultative exercise expressed their general satisfaction with the preliminary Plan of Administration filed with the Board in June 2008.

[130] In its Rate Decision dated February 5, 2007, and in its Decision dated December 10, 2007 giving conditional approval to the FAM, the Board identified at least four prerequisites prior to the implementation of a FAM:

> ...
>
> 1. an adequate and appropriate fuel procurement policy at NSPI in which the Board has confidence;
>
> 2. timely disclosure of complete and adequate information by NSPI so as to ensure confidence that the procurement policy is being appropriately administered;
>
> 3. disclosure and transparency with respect to the administration of the FAM;
>
> 4. a meaningful audit process under the administration of the Board.
>
> [Board Decision, P-887, December 10, 2007, para. 45]

[131] Based upon its review of the evidence and the submissions of the parties, the Board is satisfied that these prerequisites have been fulfilled. The consultative process has also addressed other issues.

[132] The Board is mindful of the concerns of NSPI's customers with respect to the implementation of a FAM. While some may contend that a FAM could result in reduced transparency and less oversight, the reality is quite the opposite. Any future adjustments to the Base Cost of Fuel will occur in an even more transparent manner than is presently the case. Under the FAM, the fuel forecasting process will be subjected to more periodic review by the Board and intervenors.

[133] The Board refers to its previous comments on these points:

> [76] The Board views a FAM as a tool which can actually provide a closer and more timely oversight of NSPI's fuel costs than is presently the case. As noted elsewhere in this decision, under a FAM, assessments as to the reasonableness of fuel expenses and NSPI's performance in obtaining fuel at the lowest price reasonably possible, will be carried out by the Board, as well as Intervenors, on an ongoing and more frequent basis than in the past. In the last ten years, this form of fuel costs examination has occurred four times—always in conjunction with general rate applications. Under a FAM, fuel costs will be determined on an annual basis, following the reporting, analysis and stakeholder involvement in the FAM process throughout the preceding year, which forms the basis for any adjustment.
>
> [77] Customers should also understand that, under a FAM, the rate they pay to NSPI will not go up and down every time the cost of fuel fluctuates. In other words, a FAM will not operate in the same manner as they experience at the gas pumps, where prices can change every week.
>
> [78] Even under the proposed January 1, 2009 implementation date of the FAM, the earliest time a fuel adjustment change to rates could possibly occur would be January 1, 2010. Also, it could only occur then if the previous year's fuel costs passed all the reporting, auditing, and review tests designed to ensure that the cost to be passed on to ratepayers is as low as reasonably possible—a result which, in the Board's opinion, improves its ability to protect the public interest.
>
> [Board Decision, P-887, December 10, 2007, paras. 76-78]

[134] The Board also observes that the implementation of the FAM is accompanied by a 0.2% reduction in the return on equity that can be earned by NSPI (i.e., the target

ROE will decrease from 9.55% to 9.35%). The lower return on equity results in a reduced revenue requirement to be recovered in customers' rates.

[135] Finally, there is a further benefit of a FAM for customers. The implementation of the FAM will allow NSPI to recover its prudently incurred fuel costs. This, in turn, will lower NSPI's business risk profile and foster the improved financial health of the utility over the long term, which could possibly lead to an improved outlook from bond-rating agencies and cause them to upgrade their rating for NSPI. Ultimately, this could benefit ratepayers by reducing NSPI's debt and interest charges, possibly lessening the pressure for rate increases in the future. An improved rating could also positively impact NSPI's ability to procure fuel commodities and to access capital markets for upcoming infrastructure projects.

[136] Taking into account all of the foregoing, the Board approves the FAM, on the basis of the provisions contained in the Agreement. The FAM shall take effect on January 1, 2009, conditional on the final approval of the Tariff and Plan of Administration.

11.0 WRITTEN AND ORAL SUBMISSIONS FROM THE PUBLIC

[137] In the advertised Notice of Public Hearing concerning NSPI’s rate application, the public was advised that they could file submissions with the Board outlining their views regarding NSPI’s application. In response to this notification, the Board received thirty-one written submissions from the public, plus six individuals made presentations at the evening session on September 17, 2008.

[138] Many of the written submissions expressed concerns relating to the adverse impact of another rate increase (the fifth in seven years) on customers, particularly those on fixed or low incomes. Some of the submissions questioned the validity of NSPI's forecasted fuel costs, while others focused on the high level of executive compensation, the strong first quarter earnings, power outages related to tree contacts, and the need for alternative or renewable energy sources.

[139] During the evening session, some of these same concerns were also raised. Presentations were made by two individuals on their own behalf, by a representative from each of the three main political parties in the province, and by a representative from the Canadian Federation of Independent Business ("CFIB"). Some of their comments are noted below.

[140] The Honourable Murray Scott, MLA, urged the Board to seriously consider the impact of the high increase being requested by NSPI and to consider how it will affect seniors, hardworking families, and businesses.

[141] Linda Power, representing the Nova Scotia New Democratic Party, presented a petition containing over 8,700 signatures, which asked the "Government of Nova Scotia to cancel the 8 percent tax on basic electricity and [calling] on the Utility and Review Board to approve no more electricity rate increases until Nova Scotia Power and the government are required to help individuals and families save money on their electricity bill." Ms. Power also stated that NSPI profits "should not be used for investments made by Emera outside the jurisdiction of this Board", and urged the Board to "highlight in [its] decision where

government and the utility can do more to enable Nova Scotians to save their family budget by significantly reducing their use of electricity".

[142] The Honourable Stephen McNeil, MLA, Leader of the Nova Scotia Liberal Party, emphasized the need for a long term plan from NSPI or the government on how to move away from the current dependency on fossil fuels with high, volatile prices. He also noted that expanding the use of renewable energy sources will require "an enhanced focus and investment on transmission infrastructure".

[143] Leanne Hachey, representing the CFIB and its 5,200 members in Nova Scotia, addressed three main points:

i) the inequity of cost allocation between customer classes as noted by the large difference in the Revenue to Cost (R/C) ratios between rate classes;

ii) the need to appoint a Small Business Advocate (“SBA”) who is separate from the Consumer Advocate;

iii) the need to change existing legislation to ensure that the SBA representation is based on electricity usage (i.e. rate class 10 & 11), not on the number of employees within a small business.

[144] Ms. Hachey also emphasized the great value that was realized by having small business represented by an Advocate during this application, but noted that a separate SBA will be needed in the future.

[145] The Board takes the views of the public as expressed in these submissions, as well as its responsibility to protect the public interest, very seriously and has reviewed all of the material which was filed.

[146] With respect to some of the public's concerns noted above, enhanced vegetation management is being facilitated through an increased funding allocation by NSPI; increased utilization of renewable energy sources is being addressed through the IRP process and NSPI's compliance with the Province's Renewable Energy Standard; and potential savings in electricity usage by ratepayers are being addressed through various DSM initiatives which were the subject of a separate hearing held earlier this year in April 2008.

[147] Regarding the issue of a SBA, the Board recognizes the need for an advocate that is separate from the consumer (residential) group and will, in future proceedings, appoint a separate SBA. The Board appreciates Mr. Merrick's work in balancing the two assignments in this proceeding. Mr. Merrick will continue his role as the Consumer Advocate.

[148] With respect to the public's objections to any form of rate increase, while no one wants to see increases in rates for electricity, circumstances can occur which justify an increase in rates. In this specific rate application, significant escalation in the cost of fuel used for generating electricity has been identified as a primary factor in the proposed rate increases. Similar cost escalations have also been experienced by the general public in the form of fuel for home heating, fuel for transportation, and the overall cost of goods

and services that have been impacted by higher fuel costs. For the reasons outlined in this decision, the Board has concluded that the rate increases which result from the Agreement are reasonable and justified.

[149] The Board wishes to convey its appreciation for the time, effort and interest shown by those individuals who have expressed their views to the Board during this hearing.

12.0 COMPLIANCE FILINGS

[150] NSPI is directed to file a compliance filing no later than November 19, 2008.

[151] The formal intervenors must provide comments, if any, no later than November 26, 2008.

[152] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 5th day of November, 2008.

____
Peter W. Gurnham

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Roland A. Deveau

____
Kulvinder S. Dhillon

APPENDIX - A
FORMAL INTERVENORS

Affordable Energy Coalition	Claire McNeil and Susan Nasser
Avon Valley et al. (Avon Valley Greenhouses Ltd.) (Canadian Salt Company Limited) (CKF Inc.) (Crown Fibre Tube Inc.) (Halifax Grain Elevator Limited) (High Liner Foods Incorporated) (Imperial Oil Limited) (Intertape Polymer Inc.) (J. D. Irving Ltd., Saw Mills Division) (Lafarge Canada Inc.) (Louisiana Pacific Canada Ltd.) (Maritime Paper Products Ltd.) (Michelin North America (Canada) Inc.) (Minas Basin Pulp & Power Company Ltd.) (Oxford Frozen Foods Limited) (Sifto Canada Corp.) (Statia Terminals Canada [A Valero LP Company])	Robert G. Grant, Q.C., Nancy G. Rubin and Mark Freeman
Canadian Manufacturers & Exporters	Ann E. Janega, Robert Patzelt, Q.C. and Kristin Harris
Consumer Advocate	John Merrick, Q.C., and William Mahody
Ecology Action Centre	Cheryl Ratchford and Janice Ashworth
Halifax Regional Municipality	Mary Ellen Donovan, Martin C. Ward, Q.C., Julian Boyle and Angus Doyle
Liberal Caucus Office (Nova Scotia)	Michel Samson and Ryan Grant
Municipal Electric Utilities Co-operative of Nova Scotia	Don Regan
New Democratic Party Caucus Office (NDP)	Frank Corbett, MLA and Richard D. Starr

NewPage Port Hawkesbury Limited and **Bowater Mersey Paper Company Limited**	George T. H. Cooper, Q.C., David S. MacDougall and James MacDuff
Province of Nova Scotia - Department of Energy	Stephen T. McGrath, Scott McCoombs and Richard Penny
Sierra Club of Canada	Bruno Marcocchio
Town of Lunenburg	Bea Renton
Quetta Inc.	John L. Reynolds, P. Eng.

APPENDIX - B

APPEARANCES AT THE PUBLIC HEARING - EVENING SESSION

Name	On Behalf Of
Charlotte MacKeeman	On her own behalf
The Honourable Murray Scott	The people of Cumberland South Constituency
Linda Power	NDP Caucus
The Honourable Stephen McNeil	As Leader of the Nova Scotia Liberal Party and as MLA for Annapolis
Leanne Hachey	Canadian Federation of Independent Business
Janice Ashworth	On her own behalf