



**Nova Scotia Utility and Review Board  
Annual Accountability Report  
For the Fiscal Year Ended March 31, 2010**


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## Accountability Statement

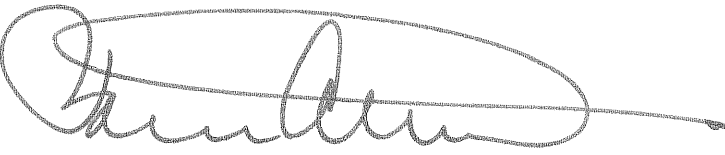
The accountability report of the Nova Scotia Utility and Review Board for the year ended March 31, 2010, is prepared according to the *Provincial Finance Act* and government policies and guidelines. These authorities require the reporting of outcomes against the Board's business plan for the fiscal year 2009-2010. The reporting of such outcomes necessarily includes estimates, judgements and opinions by management.

It is acknowledged that this accountability report is the responsibility of the Board's management and is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Board's business plan for the year.



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Peter W. Gurnham, Q.C., Chair



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Paul G. Allen, CA, Executive Director

## Introduction

This accountability report reflects on progress made in achieving the goals and priorities set out in the 2009-2010 Business Plan of the Board, and to describe other significant activities and accomplishments during the year. The 2009-2010 Business Plan more fully describes the Board's core business functions, goals and priorities for the year. The Board recommends that this accountability report be read in conjunction with the Business Plan.

## Mandate

The Board is a quasi-judicial body created by the *Utility and Review Board Act*, S.N.S. 1992 c.11. The Board has regulatory and adjudicative jurisdiction to hear applications or appeals under approximately 32 statutes. A complete list of statutes in effect for the year is attached as Appendix A.

On October 1, 2009 the Board's mandate was expanded to include responsibilities for weekly monitoring and setting of wholesale and retail prices for gasoline and diesel oil. This was a significant unplanned increase in workload.

The following is a brief description of the Board's responsibilities. For ease of understanding, the various functions are classified as regulatory or adjudicative in nature.

### Regulatory Matters

Alcohol, Gaming and Amusements. The Board hears applications involving licensing and discipline of establishments authorized to sell liquor; licensing and discipline relating to gambling operations; and appeals of film classifications. Applications for reinstatement of access to casinos by persons who have voluntarily excluded themselves are also heard by the Board.

Automobile Insurance. The Board approves the rates charged by those selling automobile insurance in the Province. The regulations under the Act<sup>1</sup> now require insurance companies to file rates at least every two years. They may file more frequently as needed.

Halifax - Dartmouth Bridges. The Board is required to set the rates, tolls and charges to be paid for use of the two bridges which cross Halifax Harbour and are operated by the Halifax-Dartmouth Bridge Commission.

Motor Carrier. The Board is responsible for economic regulation of the industry and oversight of a comprehensive safety inspection program for all public passenger carriers within the Province and interprovincial carriers operating to

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<sup>1</sup>

The *Insurance Act*, R.S.N.S. 1989, c.231 as amended

and from the Province. Carriers are broadly defined to include not-for-profit carriers and school bus operations, as well as commercial bus companies. Commercial van operations are also included in the safety program but are not economically regulated. Economic regulation includes setting fares, approving routes and stops, approving equipment for use, hearing complaints against carriers, and hearing applications for modification or discontinuance of service.

Natural Gas. The Board has responsibility for regulation of the distribution of natural gas in Nova Scotia including pipelines and underground storage facilities. That includes, but is not limited to, selection of franchisees, issuing permits to construct distribution systems, and issuance of operating permits for finished systems.

Payday Loans. The Board sets the maximum amounts that can be charged for interest and other fees for loans of \$1,500 or less outstanding for 62 days or less. The Act<sup>2</sup> requires the Board to review the rates being charged at least every three years.

Petroleum Products Pricing. The Board sets the maximum and minimum prices for gasoline and diesel oil sold as motive fuel. That includes setting the retailer margins and wholesale markup. Prices are set weekly to be effective just after mid-night on Thursdays. The Board has the power to intervene and set prices at other times should market conditions warrant.

Public Utilities. The Board exercises general supervision over all water, electrical, and steam heat utilities within the Province. This includes setting rates, tolls and charges; approval of regulations for provision of service; approval of capital expenditures in excess of \$25,000<sup>3</sup>; and any other matter the Board feels necessary to properly carry out its responsibilities. Nova Scotia Power Inc., an investor-owned utility, is the largest public utility regulated by the Board. During the year the wastewater assets of Halifax Regional Municipality were transferred to the Halifax Regional Water Commission thus now including them within the Board's jurisdiction.

Railways. The Board has regulatory responsibilities relating to licensing of short line railways which operate wholly within the Province.

## Adjudicative Matters

Assessment. The Board hears appeals from decisions of the Regional Assessment Appeal Court respecting real property and business occupancy assessments and change of use tax levies.

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<sup>2</sup> The *Consumer Protection Act*, R.S.N.S. 1989, c. 92 as amended

<sup>3</sup> Subsequent to March 31, 2010 the *Public Utilities Act* was amended to increase the threshold amount to \$250,000.

Expropriation Compensation. Where a property owner and an expropriating authority cannot agree on the compensation to be paid for expropriated land an application can be made to the Board to set the value.

Fire Safety. Certain orders made by the Fire Marshal and other fire officials under the *Fire Safety Act* may be appealed to the Board.

Municipal and School Board Electoral Boundaries. The Board also hears applications to establish and amend boundaries of municipalities, including towns and regional municipalities. The Board sets polling district boundaries and determines the number of councillors for each municipality, and sets school board electoral district boundaries and determines the number of school board members.

Planning. The Board hears appeals from municipal councils relating to amendment of land use by-laws and staff decisions concerning issuance or amendment of development agreements.

Victims' Rights and Services Compensation. The Board hears appeals from the decisions of the Director of Victim Services at the Department of Justice concerning compensation for certain expenses incurred by victims of crime.

## Highlights

The following were the most prominent matters during the year requiring significant effort or resources, or having broad public interest:

- a. Crossley Carpet Mills Ltd.<sup>4</sup> Crossley Carpet Mills Ltd ("Crossley") appealed a decision of the Nova Scotia Power Inc. ("NSPI") Dispute Resolution Officer (the "DRO") which upheld a penalty charge of \$136,762.82 imposed by NSPI under the Interruptible Rider to the Large Industrial Tariff. Large industrial customers availing themselves of this rate must agree to reduce their power consumption on ten minutes notice by the amount requested by NSPI and maintain the reduction for the period specified with certain limitations on duration. Failing to comply with the requested interruption results in a penalty of twice the cost of the appropriate firm billing effective at the time for the consumption used during the billing period. While Crossley did initially reduce their load they began drawing power again without permission from NSPI before the directed end of the imposed period. Crossley appealed the severity of the penalty. After reviewing the submissions the Board dismissed the appeal noting that NSPI had fully complied with the mandatory tariff requirements while Crossley had not. The Board concluded that it would be unfair and unjustifiable to lower the penalty.

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2009 NSUARB 120 dated August 17, 2009

- b. Annual Fuel Adjustment - NSPI<sup>5</sup>. In a decision dated December 10, 2007 the Board approved inclusion of a Fuel Adjustment Mechanism (“FAM”) in NSPI rates. A FAM is an adjustment which recovers or refunds any over or under recovery of fuel costs in the prior year. The primary aim of the FAM is to ensure ratepayers pay only the actual cost of fuel as opposed to an estimated cost. A secondary benefit is a reduction in the number of rate hearings required, and thus costs to both NSPI and its customers, while maintaining just and reasonable rates. The first full year for applying the FAM was 2009 with the first adjustment to be applied on January 1, 2010. Based on actual fuel costs NSPI applied for approval of a total of approximately \$22 million reduction or credit to be applied to all rate classes. The reduction was approved by the Board after review by its consultant and providing intervenors with an opportunity to comment. The net savings in cents per kilowatt hour by rate class ranged from a low of \$0.0017 to a high of \$0.00221.
- c. Integrated Resource Planning (IRP) Update - NSPI<sup>6</sup>. In February 2009 the Board directed NSPI to undertake a “meaningful, efficient and timely update” of an IRP filed in July 2007. An IRP is a method of planning taking into account environmental, engineering, social, financial and economic considerations. It includes evaluating both supply and demand and the effects of the widest possible range of traditional and alternative energy sources. The Board felt this update was needed as important new information had become available after 2007. An extensive update was done by NSPI involving interested parties, consultants and Board staff. Three separate stakeholder technical conferences were held and participants were able to submit written comments and questions to NSPI. The final report was filed with the Board on November 30, 2009. That report, and the subsequent “timely and thorough reporting”, provide strategic direction and help inform deliberations on matters such as increased investment in DSM<sup>7</sup> and other utility assets.
- d. Power Purchase Agreement - 60 MW - NSPI, NewPage Port Hawkesbury Corp, and Strait Bio-Gen<sup>8</sup>. The three Applicants requested approval of a power purchase agreement for 60 MW of renewable energy from biomass (i.e., burning wood and waste wood) and a waiver of the requirements of NSPI’s Fuel Manual relating to the competitive solicitation of purchased power. After five days of hearing the Board concluded that it was not within its jurisdiction to approve, in advance, the prudence of the

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<sup>5</sup> 2009 NSUARB 186 dated December 9, 2009

<sup>6</sup> Not a formal decision. Direction given by letter dated December 17, 2009.

<sup>7</sup> Demand side management which is, simply stated, using less power.

<sup>8</sup> 2009 NSUARB 111 dated July 22, 2009

expenditure. It also declined to waive the provisions of the Fuel Manual but retained jurisdiction to do so in the event the Applicants wished to provide additional information.

- e. Heritage Gas Limited - Exemption from Feasibility Test<sup>9</sup>. In a letter dated July 29, 2009 Heritage Gas Limited ("Heritage") requested approval to vary certain requirements of the "Feasibility Test" (the "Test") set out or confirmed by the Board in previous decisions. In its response the Board outlined concerns with calculations using the Test that did not always provide the intended results and that the Revenue Deficiency Account had grown well beyond expectations. The letter approved the variances on the projects but advised that the Board would continue to examine and approve Test results for main extensions and other projects.
- f. Anglican Diocesan Centre Corporation, The Dean and Chapter of Cathedral Church of All Saints, Halifax, and the Diocesan Synod of Nova Scotia and Prince Edward Island - Planning Appeal<sup>10</sup>. The Appellants represent a church which had entered into an agreement with a seniors' care company for the redevelopment of a portion of its property in Halifax which is zoned P (Park and Institutional). The project contemplated would involve a new eight-storey building adjacent and attached to the church itself. Three houses built for the clergy and a large church hall would be replaced by the new structure. The application was rejected by the Development Officer who believed residential units were contrary to the P zoning. The Board allowed the appeal, citing other areas of the Municipal Planning Strategy and Land Use By-law which permit the intended use, and granted the permit sought.
- g. Petroleum Products Pricing - Recommendations Regarding Promotions. In October 2009 changes to regulations made under the *Petroleum Products Pricing Act* included a requirement for the Board to conduct public hearings into the effect of promotions (e.g., coupons and other discounts) on the regulatory scheme and to report the results of its findings to the Minister. A hearing was held in January 2010 with a decision following on March 23, 2010. The Board found that promotions do not materially impact the availability of petroleum products in rural areas and recommended to the Minister that no limits be placed on the amounts or types offered.
- h. Petroleum Products Pricing - Recommendations Regarding Pricing in the Border Area. In October 2009 changes to regulations made under the *Petroleum Products Pricing Act* included a requirement for the Board to conduct public hearings into whether new zones were required in order to preserve the viability of markets affected by their proximity to the

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<sup>9</sup> Not a formal decision. Direction given by letter dated August 10, 2009.

<sup>10</sup> 2009 NSUARB 154 dated October 9, 2009



provincial border with New Brunswick and to make recommendations on its findings to the Minister. A hearing was held in late January 2010 in Amherst. As a result of that hearing the Board found that the markets in proximity to the border were viable and that no changes to the prices or pricing zone boundaries in that area were required. Those recommendations were made to the Minister in a decision dated March 31, 2010.

While the above items were the most significant activities in terms of public interest, impact on large numbers of taxpayers or ratepayers and consumption of Board resources, there are a large number of matters such as appeal hearings, hearings related to public passenger matters, capital expenditure approvals, licensing applications and transfers, which cumulatively make up the bulk of the Board's work. Summary information on the types and numbers of matters dealt with during the year can be found later in this report.

## **Mission & Vision**

The mission of the Board, as described in the 2009-2010 Business Plan, was to carry out the mandate assigned to it by government through statute and regulation. During the year the Board continued with its strategic plan developed in 2007-2008. Our Mission Statement continues to be:

*Our mission is to fairly and independently resolve matters.*

*Resolving matters includes:*

- a. Providing efficient, cost effective and fair processes (i.e., hearings, appeals, licensing, and compliance);*
- b. Developing a collective body of knowledge and expertise;*
- c. Producing consistent and well reasoned decisions; and*
- d. Appropriately informing public policy.*

The Vision Statement, developed in conjunction with the Mission Statement is:

*Our vision is to be a leading administrative and regulatory tribunal.*

*We will be widely recognized as a fair, independent and accessible board, making insightful, consistent and well explained decisions, which are provided in a respectful, courteous and timely manner.*

## **Core Activities**

Our core activities are:

Quasi-judicial Function. This is the primary function of the Board - to carry out those responsibilities delegated by the Legislature pursuant to various statutes.

Motor Carrier (Public Passenger) Administration. This involves safety inspection, licensing administration, and enforcement functions relating to the public passenger industry, and some community based and not-for-profit organizations.

## **Priorities and Goals**

### **Core Area 1 - Quasi-judicial Function**

*Priority #1: Heighten the efficiency and effectiveness of the Board by:*

- a. Shortening the timeline of the decision making process from filing to decision.*
- b. Continue to improve access to Board services*
- c. Establish regular consultation and feedback processes*
- d. Expand non-hearing resolution processes.*

During the year the Board continued to develop its case management and electronic hearing capabilities. The new case management system was brought into production as planned and populated with information on active files. Additionally, the system was linked to the Board's web site allowing participants and the public to search for matters and evidence being considered. This new service has proven very popular with both participants and media as they are able to access relevant information at any time. As the volume of information in the system grows the Board is provided with new and better information allowing more detailed review of case handling. With better information the Board is better able to monitor to ensure no matters are unintentionally lingering.

User guides for some selected mandates were completed during the year. These are now being made available on the Board's web site.

The Board regularly collects information from participants in survey form. Completed surveys are reviewed as received and any comments of concern followed up. Based on the surveys, overall satisfaction with the Board's practices, procedures and services is very high.

During September 2009 the Chair and Executive Director met with stakeholders involved with the initial strategic planning process to update them on progress and provide an opportunity for further comment.

After conducting considerable research on the matter the Board concluded that

non-hearing resolutions could be pursued in a limited number of applications. Non-hearing resolution can reduce both the time involved and cost for participants. Where resolution is not possible formal proceedings are still available.

*Priority #2: To increase understanding of the Board by:*

- a. Increase public understanding of decisions*
- b. Improve parties' understanding of Board processes*
- c. Be seen by government as a resource to inform public policy<sup>11</sup>*

As noted above, more information is now provided through the Internet based link to the Board's case management system. This not only provides timely information to the public and media on ongoing matters, it also provides a historical repository of decisions, orders, evidence and other documentation for research purposes. This assists in meeting both an increased understanding of decisions by providing more complete context and better understanding of processes used or in use.

Information of assistance to policy development was requested by various government departments at various times throughout the year. Topics included energy, wastewater, geothermal heating, liquor licensing, and petroleum product pricing.

*Priority #3: To strengthen the Board's capacity to adapt to the future by:*

- a. Being prepared to adapt to future trends*
- b. Staff and members have required core competencies*
- c. Continuously creating and adopting regulatory and adjudicative best practices.*

Development of new standards for training for each position and a consolidated training plan was delayed as resources were redeployed to the transition of the petroleum products pricing mandate and changes in staffing occurred. Late in the fiscal year this initiative was resumed with the intent being to complete and implement the plans during fiscal 2010-2011.

The Board continues to be involved with organizations such as the Canadian Association of Members of Public Utility Tribunals, the Canadian Council of Administrative Tribunals, the National Association of Regulatory Utility Commissioners (US), and the Association of Liquor Licensing Authorities of

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<sup>11</sup> As a quasi-judicial body the Board does not presume to set public policy. That is the role of government. Nevertheless, it does feel it appropriate to ensure government has relevant information when making policy decisions relating to its areas of responsibility. This can include alerting government when the Board feels the policy objectives contained in law are no longer being met, or circumstances have materially changed which could warrant a policy review.

Canada. Participation in these organizations, and others like it, provides valuable information on trends, and permits exchange of information on matters of current and future interest.

## **Core Area 2: Motor Carrier (Public Passenger) Administration**

### *Priority #1: Maintain an effective safety inspection and enforcement program.*

The Motor Carrier Division ("Division") is responsible for inspecting public passenger vehicles subject to the *Motor Carrier Act*, and others voluntarily participating in the program. It is also responsible for enforcing the *Motor Carrier Act*, *Motor Vehicle Act*, *Motor Vehicle Transport Act Canada*, and license conditions imposed by Board Order. For fiscal 2009-2010 the Division planned to continue to safety inspect all vehicles under Board jurisdiction at least twice annually.

The safety inspection program was undertaken as planned. During 2009-2010 a total of 5,031 vehicle inspections (2008-2009: 5,193) were reported resulting in 3,087 instances of the vehicle being removed from service (2008-2009: 3,154) for repair or maintenance. In the vast majority of cases the vehicles were later returned to service after correction of the faults and reinspection.

Enforcement statistics for the year with comparisons for the previous year are as follows:

	<u>2009-2010</u>	<u>2008-2009</u>
Road checks	632	249
Investigations	179	191
Summary offense tickets issued	42	25
Motor Carrier violation reports issued	43	38

### *Priority #2: Continue support to the Atlantic Provinces School Bus Purchase Program.*

As in past years the Division planned to assist in specification of the types of vehicles to purchase, audit during delivery to ensure design and product supplied are consistent with the purchase agreement, and to safety inspect delivered vehicles.

The support was delivered as planned. A total of 218 (2008-2009: 194) buses were purchased with 63 (2008-2009: 68) coming to Nova Scotia.

## Budget Context

Nova Scotia Utility & Review Board - Estimated Budget Expenditures by Core Business				
Core Business (all)	Budget 2009- 2010	Actual 2009- 2010	Variance	See Notes
	000's	000's	000's	
Revenues (non-capital):				
Operating Grant from Province of Nova Scotia	3,852	3,558	(294)	1
Recoveries from utilities and others	3,021	3,256	235	
Unbudgeted operations	-	1,846	1,846	2
Total revenues	6,873	8,660	1,787	
Expenditures (non-capital):				
Budgeted	6,873	6,794	(79)	
Unbudgeted operations	-	1,841	1,841	2
Total expenditures	6,873	8,635	1,762	
Net income (loss)	-	25	25	
Restricted & unrestricted surplus, beginning of year	520	520	-	
Restricted & unrestricted surplus, end of year	520	545	25	
Salaries and benefits	4,926	5,058	132	
Funded Members and staff (FTE's)	56.0	59.0	3.0	

### Notes

1. Total funds received by grant for the year were \$3,852,000. Included in that amount is funding relating to small capital purchases. During the year a total of \$293,516 was set aside for the purchase of capital assets and thus excluded from operating revenue. The Board purchases capital assets from the funding provided by the Province of Nova Scotia and the utilities. Occasionally larger purchases are supported by separately identified funding. Revenue relating to capital assets is deferred and amortized at the same rate as the related capital assets. Funding provided for planned capital asset acquisitions is also deferred until the year of acquisition and then amortized to revenue over the life of the related asset.
2. Consultants are engaged by the Board to provide advice related to matters such as utility and natural gas operations and to provide expert testimony during hearings. Consulting fees for specific hearings are generally recovered directly from the entities involved. Expenses and recoveries relating to large hearings cannot be reasonably

predicted or estimated in advance, accordingly, no provision is made for these activities in the budget. The Board also recovers certain transcription, copying and other direct expenses from various sources.

The complete audited financial statements of the Board are published annually in Part II of the Public Accounts for the Province of Nova Scotia.

## Outcomes and Performance Measures

Performance measurement in a quasi-judicial context must be carefully designed due to the “custom” or “one-time” nature of many applications and appeals. For example, some hearings require reviews of large amounts of evidence, involve many parties, and can take a number of months to schedule and complete. Other matters may only require the review of small amounts of evidence and, after scheduling, need only a few days to complete. Activity and speed measures do not equate to quality of decision making or due legal process. Regardless of the type of hearing the primary emphasis must always be on producing an unbiased, timely, fair and legally correct decision.

### Core Business Areas, Measures and Outcomes

#### *Core Business Area 1: Quasi-judicial Function*

The core function of the Board is to fairly and independently resolve matters.

<b>Desired Outcome:</b>	Independently and fairly resolve matters.
<b>Measures:</b>	Percentage of hearing decisions issued within 90 days of receipt of final submissions.  Percentage of decisions in relation to interlocutory matters released within 10 business days of final submission.  Average total time for processing case files.
<b>Target:</b>	95% or more of decisions released within stated timeline.  (Note: No total time targets have yet been established for overall processing. As noted above data are being collected in order to set processing targets.)
<b>What Does the Measure Tell Us?</b>	This measure shows how timely the Board is at resolving matters.

**Where Are We  
Now and  
Reporting on  
2009-2010  
Targets?**

As can be seen from the table on the next page the targets are being met in 97.8% of all cases. Average decision times are presented in the following tables. Variations in average times can be expected from year to year. Larger, more complex hearings take more time to decide and cause the average to increase. Conversely, larger numbers of single matter hearings take less time to decide and cause the average to decrease. With two exceptions, the average decision time in each mandate area is considerably better than the stated goal of producing decisions in less than 90 days from the date of receiving final evidence.

**Where do we  
want to be?**

Starting in the current year success will be measured against 10, 60 or 90 day writing time targets for the specific type of matter. Additional targets, as may be established by statute or the Board, may be added in future. At this time we wish to continue to have a success rate that is as high as possible while respecting the primary emphasis of producing an unbiased, timely, fair and legally correct decision. No targets have been set for average times to decision in recognition of the higher priority being placed on fairness and correctness. The information will continue to be monitored and the averages kept as low as possible.

It should be noted that amendments made to the *Municipal Government Act* during the prior year now require the Board to issue decisions relating to planning appeals within 60 days of the conclusion of proceedings unless the panel determines another target is in the interests of justice. The *Insurance Act* also imposes time restrictions of 15 and 60 days for the production of certain types of decisions. This is the first year of reporting of these new decision writing standards.

During the year the Board introduced a new case management system. That system allows for accumulation of new and more accurate information about the matters the Board deals with. Cases, formerly classified as "requiring hearing" or "interlocutory" in nature, are now categorized by the decision writing targets. Decision writing target times have been reduced for some types of matters. The following tables have been reorganized to accommodate new information and mandates added during the year. Where possible comparative information is provided.

Summary results for compliance with policy on decision production times are as follows:

Decision writing targets <sup>12</sup>	2009-2010			2008-2009		
	Number of Matters Decided	Matters Within Standard	Success Rate	Number of Matters Decided	Matters Within Standard	Success Rate
90 days	434	412	94.9%	154	145	94.2%
60 days	93	91	97.9%	23	20	87.9%
20 days <sup>13</sup>	2	2	100.0%			
15 days <sup>14</sup>	4	4	100.0%			
10 days	711	708	99.6%	758	728	96.0%
Combined	1244	1217	97.8%	935	893	95.5%

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<sup>12</sup> Decision writing times are measured from the date of receipt of final evidence to the date of issuance of the Decision. 10 day matters are expressed in working days. All others are calendar days.

<sup>13</sup> New writing time introduced to better reflect automobile insurance regulations for certain types of applications.

<sup>14</sup> Ditto



Average decision production times by area of jurisdiction are as follows:

Jurisdiction / Mandate	2009-2010		2008-2009	
	Number of Decisions (all types) <sup>15</sup>	Average Time to Decision (days)	Number of Decisions (all types) <sup>16</sup>	Average Time to Decision (days)
Gaming	6	4	16	12
Liquor	655	1	543	1
Theatre & Amusements	1	0 <sup>17</sup>	0	0
Assessment	33	60	30	73
Automobile Insurance	106	14	32	25
Criminal Injury Compensation	0	0	0	0
Electricity	151	26	55	8
Expropriation Compensation	2	194	0	0
Fire Safety	2	56	2	22
Heritage Properties	3	9	0	0
Halifax-Dartmouth Bridge Commission	0	0	1	0 <sup>18</sup>
Motor Carrier	81	6	96	3
Municipal and School Board Boundaries	1	159	1	151
Natural Gas	31	3	21	5
Payday Loans	0	0	1	135
Petroleum Product Pricing <sup>19</sup>	29	5		
Planning	12	35	7	70
Railways	1	1	0	0
Water	96	14	95	10
Wastewater	34	10	35	6
Total	1244		935	

<sup>15</sup> Includes matters of all decision writing time targets.

<sup>16</sup> Excludes interlocutory (10 day decision writing time) matters.

<sup>17</sup> Decision rendered same day as final hearing date

<sup>18</sup> Ditto

<sup>19</sup> Weekly pricing mandate assumed by the Board on October 1, 2009.

## Core Business Area 2: Motor Carrier (Public Passenger) Administration

The core function of the Motor Carrier Division of the Board is to provide effective inspection and enforcement services relating to motor carrier operations.

<b>Desired Outcome:</b>	An effective safety inspection and enforcement program.
<b>Measure:</b>	Preventable accidents <sup>20</sup> caused by mechanical failure.
<b>Target:</b>	No preventable accidents caused by mechanical failure.
<b>What Does the Measure Tell Us?</b>	This measure shows the effectiveness of the physical inspection program by looking at the end result. The aim of the safety program is to prevent accidents through regular mechanical inspection, examination of maintenance programs, working with carriers to resolve technical and operating problems, and enforcement activities.
<b>Where Are We Now and Reporting on 2009-2010 Targets?</b>	The Division became aware of a total of 12 accidents during the year. Of those, it is the opinion of the inspectors assigned to investigate that none were caused by detectable mechanical failure or that such failure contributed in a material way. <sup>21</sup>
<b>Where do we want to be?</b>	Our target is to continue to have no accidents which can be attributed to preventable mechanical failure.

On November 6, 2008 the Auditor General released a report based on an examination of the motor carrier safety inspection program. Among the conclusions the Auditor General called into question the effectiveness of this measure as:

- a. Carriers are not required by law to report accidents to the Division.
- b. The Division has not documented a specific process for inspectors to record accidents which they are aware of or investigate.
- c. Documentation of accident investigation is limited.

The full text of the report can be found on the Auditor General's website at [www.oag-ns.ca](http://www.oag.ns.ca).

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<sup>20</sup> "Preventable accidents" is limited to accidents that result in death, injury or significant property damage. Minor incidents which are not reported are not investigated or otherwise considered.

<sup>21</sup> Note that the purpose of these investigations is to assist in the formulation of better standards and procedures. They are not intended for nor necessarily conducted to a level sufficient to reach conclusions in prosecutions or civil proceedings.

The Division has accepted the recommendations and undertaken to formalize the investigation process and seek to make accident reporting mandatory. During the year the Division changed its internal processes for review and documentation of accident investigations. The Board, on behalf of the Division, also requested funding to allow a formal risk assessment to be conducted which would inform policy making and further process changes. Funding for the risk assessment has been approved for the fiscal year 2010-2011. Other changes recommended in the report will be reported in future years as they are completed.

## **Appendix A**

### **List of Statutes Containing Board Mandate**

1. *Assessment Act*, R.S.N.S. 1989, c.23 as amended
2. *Consumer Protection Act*, R.S.N.S. 1989, c.92 as amended
3. *Education Act*, S.N.S. 1995-96, c.1 as amended
4. *Electrical Installation & Inspection Act*, R.S.N.S.1989, c. 141 as amended
5. *Electrical Installation and Inspection Act*, R.S.N.S. 1989, c. 141 as amended
6. *Energy Resources Conservation Act*, R.S.N.S., 1989, c.147 as amended
7. *Expropriation Act*, R.S.N.S. 1989, c. 156 as amended
8. *Fire Safety Act*, S.N.S. 2002, c.6
9. *Gaming Control Act (Part II)*, S.N.S. 1994-95, c. 4 as amended
10. *Gas Distribution Act*, S.N.S., 1997, c. 4 as amended
11. *Halifax-Dartmouth Bridge Commission Act*, R.S.N.S. 1989, c.192 as amended
12. *Halifax Regional Municipality Water Commission Act*, S.N.S. 1963, c.55 as amended
13. *Heritage Property Act*, R.S.N.S. 1989, c.199 as amended
14. *Insurance Act*, R.S.N.S. 1989, c.231 as amended <sup>22</sup>
15. *Liquor Control Act*, R.S.N.S. 1989, c.260 as amended
16. *Motor Carrier Act* (public passenger only), R.S.N.S. 1989, c.292 as amended
17. *Motor Vehicle Transport Act of Canada*, S.C. 1987, c.35 (Federal) as amended
18. *Municipal Government Act*, S.N.S. 1998, c.18 as amended
19. *Nova Scotia Power Finance Corporation Act*, R.S.N.S. 1989, c.351 as amended
20. *Nova Scotia Power Privatization Act*, S.N.S. 1992, c.8 as amended
21. *Petroleum Products Pricing Act*, S.N.S., 2005, c. 11
22. *Petroleum Resources Act*, R.S.N.S. 1989, c. 342 as amended
23. *Petroleum Resources Removal Permit Act*, S.N.S. 1999 c.7 as amended
24. *Pipeline Act*, R.S.N.S. 1989 c. 345 as amended
25. *Public Utilities Act*, R.S.N.S. 1989, c.380 as amended
26. *Railways Act*, S.N.S. 1993, c.11 as amended
27. *Revenue Act*, S.N.S. 1995-96, c.17 as amended
28. *Technical Safety Act*, S.N.S. 2008, C.10<sup>23</sup>
29. *Theatre and Amusement Act*, R.S.N.S. 1989, c. 466 as amended
30. *Underground Hydrocarbons Storage Act*, S.N.S. 2001, c. 37
31. *Utility and Review Board Act*, S.N.S. 1992, c. 11 as amended
32. *Victims' Rights and Services Act*, R.S.N.S. 1989, c.14 as amended

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<sup>22</sup> Assigned to the Board effective October 14, 2008

<sup>23</sup> Not yet proclaimed