



**Nova Scotia Utility and Review Board  
Annual Accountability Report  
For the Fiscal Year Ended March 31, 2012**

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## Accountability Statement

The accountability report of the Nova Scotia Utility and Review Board for the year ended March 31, 2012, is prepared pursuant to the *Finance Act* and government policies and guidelines. These authorities require the reporting of outcomes against the Board's Statement of Mandate for the fiscal year 2010-2011. The reporting of the Board's outcomes necessarily includes estimates, judgements and opinions by management.

It is acknowledged that this accountability report is the responsibility of the Board's management. The report is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Board's 2011-2012 Statement of Mandate.



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Peter W. Gurnham, QC, Chair



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Paul G. Allen, CA, Executive Director

## Introduction

This accountability report reflects on progress made in achieving the outcomes set out in the 2011-2012 Statement of Mandate for the Board. The Board recommends that this accountability report be read in conjunction with that Statement of Mandate.

For the 2011-2012 reporting year there were two important changes to the Board's mandates. They are:

1. Transfer of responsibility for the Motor Carrier Division from the Board to the Department of Transportation and Infrastructure Renewal. The Motor Carrier Division is responsible for enforcement of the *Motor Carrier Act* and related regulations; carrier compliance with the terms of licenses issued by the Board; and administration of the license documentation. The transfer was effective on April 1, 2011 with final documentation in place in November 2011. While there is no impact on the number of applications received the change strengthens the independence of both the Board and the Division.
2. Transfer of responsibility for routine liquor licensing matters to the Alcohol and Gaming Division of Service Nova Scotia and Municipal Relations. Amendments to the *Liquor Control Act* and regulations have shifted responsibility for activities such as issuance of liquor licenses, amendments to existing licenses, and discipline of licensees to the Division. The Board continues to have responsibilities for complex matters referred to it by the Division and as an appeal body for disciplinary sanctions. The transfer of responsibilities was effective in early January 2012. The change will significantly reduce the number of liquor matters processed annually by the Board and improve licensing response times for industry.

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## Financial Results

<b>Nova Scotia Utility &amp; Review Board - Estimated Budget Expenditures</b>				
	Budget 2011- 2012	Actual 2011- 2012	Variance	See Notes
	000's	000's	000's	
<b>Revenues (non-capital):</b>				
Operating Grant from Province of Nova Scotia	2,344	2,344	-	
Recoveries from utilities and others	3,566	3,246	(320)	
Unbudgeted operations	-	3,260	3,260	1
<b>Total revenues</b>	<b>5,910</b>	<b>8,850</b>	<b>2,940</b>	
<b>Expenditures (non-capital):</b>				
Budgeted	5,910	5,499	(411)	
Unbudgeted operations	-	3,263	3,263	1
<b>Total expenditures</b>	<b>5,910</b>	<b>8,762</b>	<b>2,852</b>	
<b>Net income</b>	<b>-</b>	<b>88</b>	<b>88</b>	
Restricted & unrestricted surplus, beginning of year	2,238	2,238	-	2
Transfer to Province of Nova Scotia	(917)	(917)	-	3
Restricted & unrestricted surplus, end of year	1,321	1,409	88	
<b>Salaries and benefits</b>	<b>4,146</b>	<b>3,926</b>	<b>(220)</b>	
<b>Funded Members and staff (FTE's)</b>	<b>41</b>	<b>39</b>	<b>(2)</b>	

### Notes:

1. It is not possible to forecast costs for expert witnesses and other services for larger hearings in advance of the actual application or appeal as they depend on the information filed by the parties. As a result, no provision is made for these expenses in the budget. As the Board incurs the expenses they are recovered and therefore appear in both the revenue and expense categories above.
2. The 2011-2012 financial statements were prepared in accordance with the Canadian Public Sector Accounting Standards. The Board's date of transition to these new standards was April 1, 2010. Under the previous framework, government transfers for the purpose of capital assets were deferred and amortized to income at the same rate

the asset was amortized. However, under the new PSA Standards, government transfers for the purpose of purchases of capital assets are recognized as revenue when the related assets are acquired, unless stipulations by the transferor give rise to an obligation that meets the definition of a liability. Since there were no stipulations imposed by the transferor to the Board's funding for capital assets, adjustments of \$1,193,166 at April 1, 2010, and \$1,416,859 at March 31, 2011 were made to derecognize the deferred capital funding liabilities, with an offsetting adjustment to accumulated surplus. As well, at March 31, 2011 an adjustment was made to operating surplus to increase revenue by \$223,692 which resulted in a corresponding increase in accumulated surplus for the year ending March 31, 2011.

3. Effective April 1, 2011 financial responsibility for, and substantial control of, the operations of the Motor Carrier Division was moved from the Board to the Province of Nova Scotia. Consequently, the statutory grant from the Province of Nova Scotia, which included funding for the Motor Carrier Division, was reduced by \$1,575,000 for the current and future years. A total of \$917,516 in accumulated surplus, comprised of \$464,934 in restricted surplus for future capital asset acquisitions and \$452,582 in restricted surplus for tangible capital assets relating to the Division, was transferred to the Province of Nova Scotia during the year.

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

## Measuring Our Performance – Quasi-judicial Function

The core mandate of the Board is to fairly and independently resolve matters. Performance measurement in a quasi-judicial context must be carefully designed due to the “custom” or “unique” 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.

<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 planning decisions issued within 60 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>Targets:</b>	95% or more of decisions released within stated timeline for 90 day matters. 100% of decisions released within stated timeline for 60 day planning matters. 95% or more of decisions released within stated timeline for 10 day or interlocutory matters.
<b>What Do these Measures Tell Us?</b>	These measures show how timely the Board is at resolving matters.

**Where Are We Now and Reporting on 2011-2012 Targets?**

As can be seen from Schedule 1 on the next page there is an overall success rate of 96.9% for all cases (2010-2011: 97.4%). This exceeds the stated target of 95%.

Average decision times by mandate are presented in Schedule 2. Variations in average times can be expected from year to year and with changes in the mandates assigned to the Board. Larger, more complex hearings take more time to decide and cause the average to increase. Conversely, larger numbers of single issue hearings take less time to decide and cause the average to decrease.

The success rate for 90 day matters was slightly better than that of the preceding year at 96.3% (2010-2011: 95.6%).

The success rate for 60 day matters was 95.8% (2011: 92.4%). Within that group, the success rate for planning matters was 71.4% (2010-2011: 85.7%). Planning matter figures are based on 5 of the 7 separate matters having a decision rendered within the 60 day target. It should be noted that the average decision writing time for planning matters was 55 days (2010–2011: 35 days).

The success rate for 10 day matters was 97.7% (2010-2011: 99.5%).

**Where do we want to be?**

Success is measured against the target writing times 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.



## Schedule 1 – Success by Writing Time

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

Decision writing targets <sup>1</sup>	2011-2012			2010-2011		
	Number of Matters Decided	Matters Within Standard	Success Rate	Number of Matters Decided	Matters Within Standard	Success Rate
90 days	323	311	96.3%	388	371	95.6%
60 days	71	68	95.8%	79	73	92.4%
30 days	0	0	NA	1	1	100.0%
15 days	2	2	100.0%	0	0	NA
10 days	354	346	97.7%	548	545	99.5%
Combined	750	727	96.9%	1,016	990	97.4%

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<sup>1</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.

## Schedule 2 – Average Writing Time by Matter Type

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

Jurisdiction / Mandate	2011-2012		2010-2011	
	Number of Decisions (all types)	Average Time to Decision (days) <sup>2</sup>	Number of Decisions (all types)	Average Time to Decision (days)
Gaming	9	0	6	1
Liquor	338	2	536	1
Theatre & Amusements	0	0	2	0
Assessment	21	17	31	25
Automobile Insurance	76	18	65	20
Criminal Injury Compensation	0	0	0	0
Electricity	111	28	115	16
Expropriation Compensation	0	0	9	123
Fire Safety	1	0	4	11
Heritage Properties	0	0	2	92
Halifax-Dartmouth Bridge Commission	0	0	1	63
Motor Carrier	60	8	84	16
Municipal and School Board Boundaries	10	14	1	0
Natural Gas	21	30	32	16
Payday Loans	0	0	1	67
Petroleum Product Pricing	57	2	55	1
Planning	7	55	18	35
Railways	0	0	1	20
Water	27	19	41	20
Wastewater	12	10	12	7
Total	750		1016	

<sup>2</sup> Where the average writing time is "0" all decisions were issued on the same day as the final information was received.

## **Annual Report under Section 18 of the *Public Interest Disclosure of Wrongdoing Act***

The *Public Interest Disclosure of Wrongdoing Act* was proclaimed into law on December 20, 2011. The Act provides for employees to be able to come forward if they reasonably believe that a wrongdoing has been committed or is about to be committed and they are acting in good faith. The Act also protects employees who do disclose from reprisals, by enabling them to lay a complaint of reprisal with the Labor Board.

A “wrongdoing” for the purposes of the Act is:

- a) a contravention of provincial or federal laws or regulations;
- b) a misuse or gross mismanagement of public funds or assets;
- c) an act or omission that creates an imminent risk of a substantial and specific danger to the life, health or safety of persons or the environment;  
or,
- d) directing or counselling someone to commit a wrongdoing.

The following is a summary of disclosures received by the Nova Scotia Utility and Review Board for fiscal 2011-2012:

Information Required under Section 18 of the Act	Fiscal Year 2011-2012
The number of disclosures received	0
The number of findings of wrongdoing	Not applicable
Details of each wrongdoing	Not applicable
Recommendations and actions taken on each wrongdoing	Not applicable

## Appendix A - List of Statutes Containing Board Mandates

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

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<sup>3</sup> Automobile insurance only.

<sup>4</sup> Sections relating to the Board not yet proclaimed.