



**Nova Scotia Utility and Review Board  
Annual Accountability Report  
For the Fiscal Year Ended March 31, 2019**

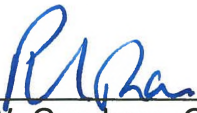
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## Accountability Statement

The Accountability Report of the Nova Scotia Utility and Review Board for the year ended March 31, 2019, is prepared pursuant to the *Finance Act* and government policies and guidelines. These authorities require the reporting of outcomes against the Board's Business Plan for the fiscal year 2018-2019. The reporting of the Board's outcomes necessarily includes estimates, judgements and opinions by management.

We acknowledge 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 2018-2019 Business Plan.



Peter W. Gurnham, QC, Chair



Paul G. Allen, CPA, CA, Executive Director

## Introduction

This Accountability Report reflects on progress made in achieving the outcomes set out in the 2018-2019 Business Plan for the Board. The Board recommends that this Accountability Report be read in conjunction with that Business Plan.

## Financial Results

Nova Scotia Utility and Review Board - Estimated Budget Expenditures				
	Budget 2018- 2019	Actual 2018- 2019	Variance	See Notes
	000's	000's	000's	
Revenues (non-capital):				
Operating Grant from Province of Nova Scotia	2,006	2,006	-	
Recoveries from utilities and others	3,975	3,934	(41)	
Unbudgeted operations	-	3,118	3,118	1
Total revenues	5,981	9,058	3,077	
Expenditures (non-capital):				
Budgeted	6,036	5,821	(215)	
Unbudgeted operations	-	3,110	3,110	1
Total expenditures	6,036	8,931	2,895	
Net surplus or (deficit)	(55)	127	182	
Restricted & unrestricted surplus, beginning of year	1,760	1,760	-	
Restricted & unrestricted surplus, end of year	1,705	1,887	182	2
Funded Members and staff (FTE's)	40	40	0	

### Notes:

1. 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.

2. The complete audited financial statements of the Board are published annually in Part II of the Public Accounts for the Province of Nova Scotia. The 2018-2019 financial statements were prepared in accordance with Canadian Public Sector Accounting Standards as issued by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada.

### *Measuring Our Performance*

The core mandate of the Board is to fairly and independently resolve matters in an efficient and effective manner. 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 review of large amounts of evidence, involve many parties, and can take a number of months to schedule and complete. Other matters may only require a 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 in a timely fashion.
<b>Measures:</b>	Percentage of hearing decisions issued within target or legislated number of days from receipt of final information.
<b>Targets:</b>	95% or more of hearing decisions released within target number of writing days from receipt of final information.
<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 2018-2019 targets?**

As can be seen from Schedule 1 below there is a combined success rate of 99.2% for all cases (2017-2018: 98.3%). This is above the target set by the Board.

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 may 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. We attempt to minimize the time it takes to issue decisions for matters where there is a significant public interest or financial impact.

The success rate for 90-day matters was up slightly from the preceding year at 99.2% (2017-2018: 98.2%).

The success rate for 60-day matters was up slightly rising to 100.0% (2017-2018: 97.3%). Within the 60-day category a total of six planning matters were decided with the writing time success rate increasing to 100.0% (2017-2018: 71.4%). Average writing time decreased to 27 days (2017-2018: 60 days).

For the decision writing time categories of 30 days the target was met for 100% of the four matters decided (2017-2018: 100%).

There were no 20-day matters in the current year (2017-2018: 100%).

For the decision writing time of 15 days the Board succeeded in meeting the target for 80.0% of the five matters decided (2017-2018: 100.0%).

The success rate for 10 business day matters was 100.0%. This is consistent with the prior year (2017-2018: 100.0%).

Overall workload was down slightly, most notably in the area of electricity matters.

Average decision times by mandate are presented in Schedule 2.

**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. (see Note 1 on page 9):

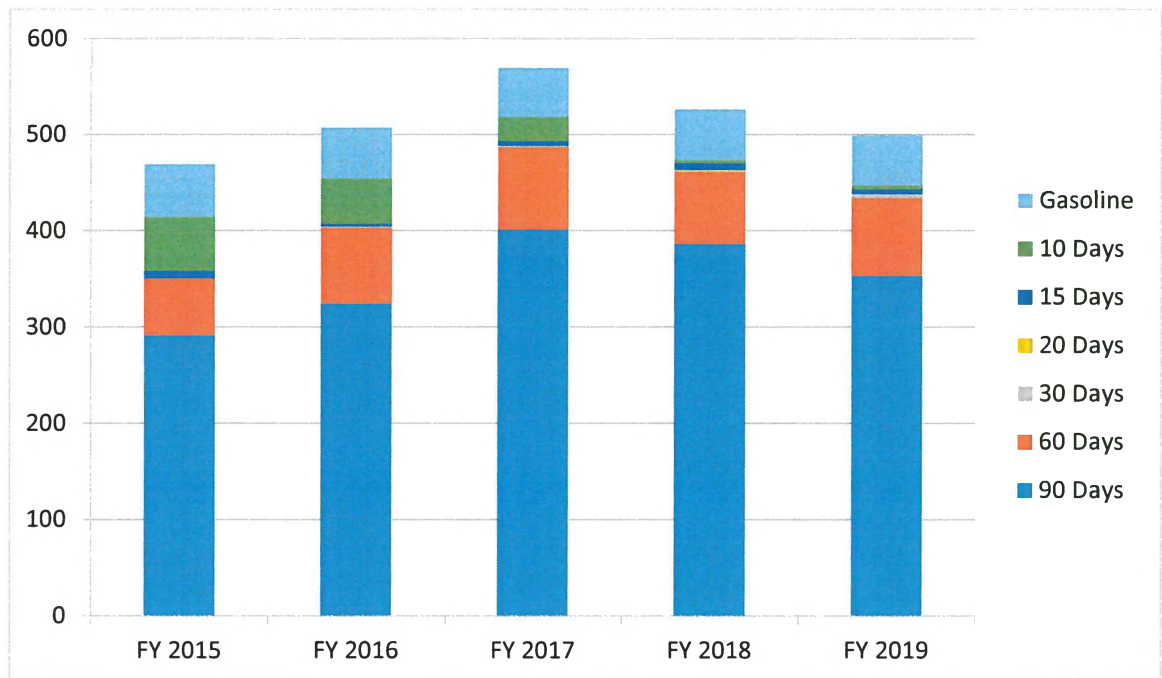
Decision writing targets <sup>1</sup>	2018-2019			2017-2018		
	Number of Matters Decided	Matters Within Standard	Success Rate	Number of Matters Decided	Matters Within Standard	Success Rate
90 days	353	350	99.2%	386	379	98.2%
60 days	81	81	100.0%	75	73	97.3%
30 days	4	4	100.0%	1	1	100.0%
20 days	0	0	-	1	1	100.0%
15 days	5	4	80.0%	7	7	100.0%
10 days	4	4	100.0%	3	3	100.0%
Gasoline and diesel oil price setting <sup>2</sup>	52	52	100.0%	53	53	100.0%
Combined	499	495	99.2%	526	517	98.3%

<sup>1</sup> Decision writing times are measured from the date of receipt of final information to the date of issuance of the Decision. 10 day matters are measured in working days. All others are calendar days.

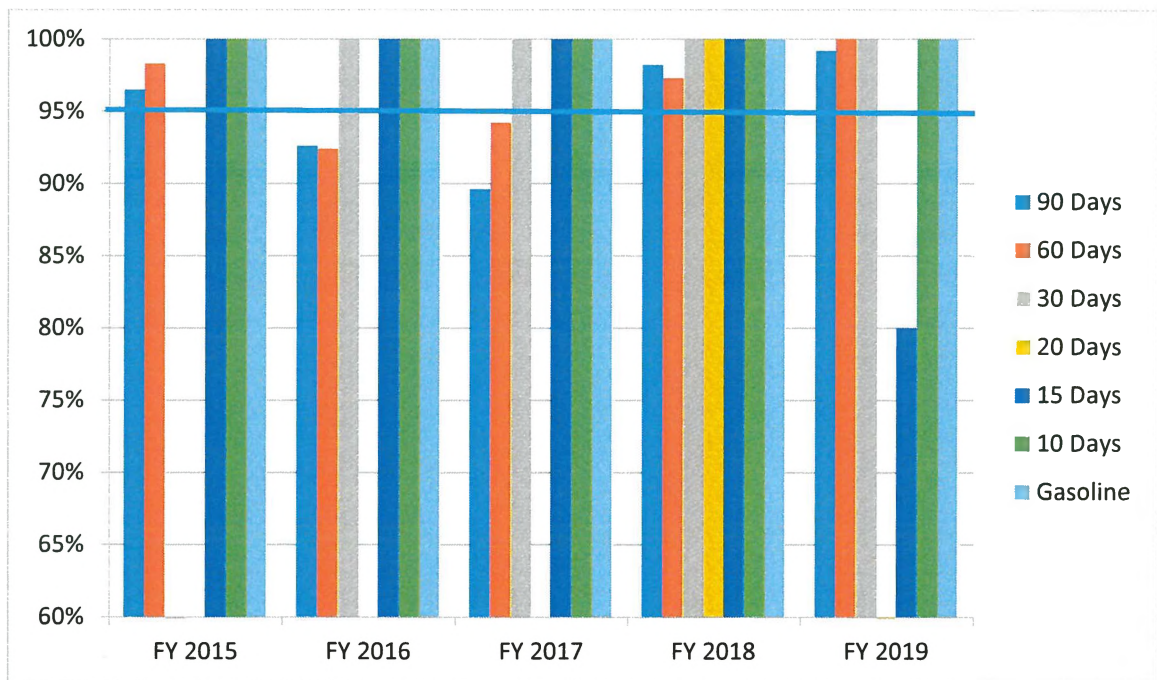
<sup>2</sup> Gasoline and diesel oil pricing decisions are issued on the same day as the evidence is considered.



**Chart 1 – Comparison of Number of Matters by Writing Time<sup>3</sup>**



**Chart 2 – Success Rate by Major Writing Time Categories - Last 5 Years**



<sup>3</sup> See note on next page.



Notes:

1. The Board can receive a number of applications or appeals and, for simplicity and efficiency, choose to group them together into one proceeding. Ordinarily only one decision is issued for grouped matters. It is felt that the most useful reporting is to count grouped matters as a single matter.

### *Supplemental Information*

#### **Schedule 2 – Average Writing Time by Matter Type**

The following Schedule shows the number of matters or cases decided by type and the average time from receipt of final information from the parties to release of a decision. Figures include all types of matters and do not separate applications or appeals which can be decided without an oral hearing from larger cases requiring one.

Average decision production times by area of jurisdiction are as follows (continued on following page):

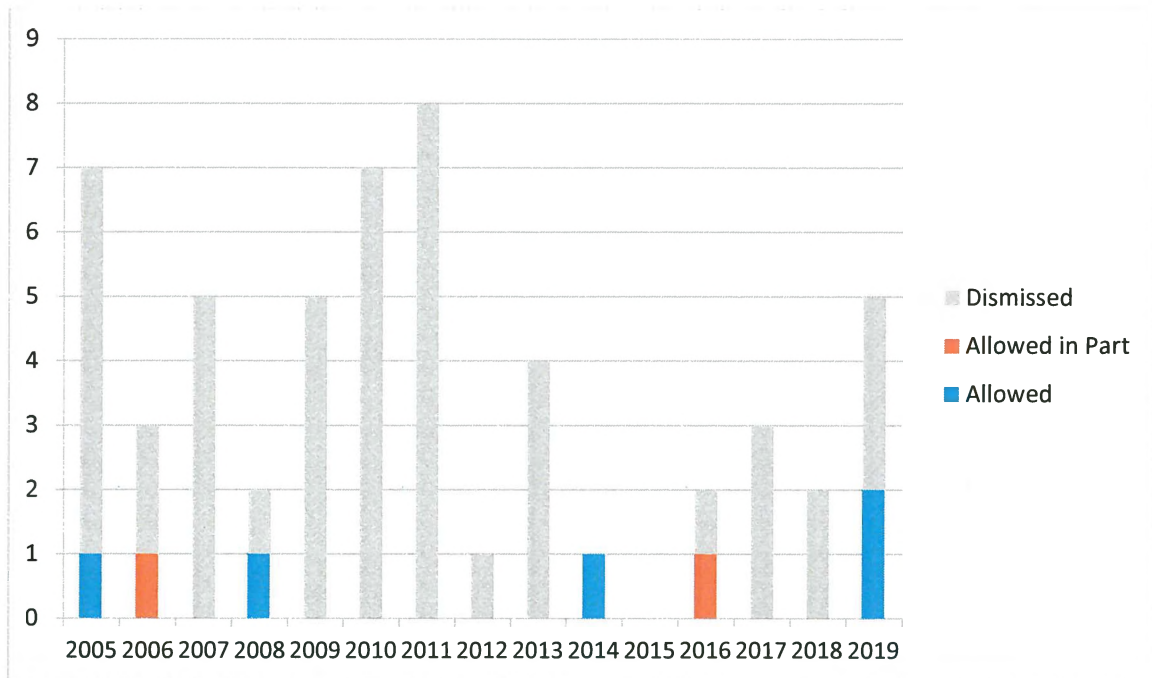
Jurisdiction / Mandate	2018-2019		2017-2018	
	Number of Decisions (all types)	Average Time to Decision (days) <sup>4</sup>	Number of Decisions (all types)	Average Time to Decision (days) <sup>4</sup>
Gaming	13	13	7	10
Liquor	2	46	3	30
Theatre & Amusements	-	NA	-	NA
Assessment	15	23	16	14
Automobile Insurance	86	14	81	13
Criminal Injury Compensation	-	NA	-	NA
Electricity	131	29	178	31
Expropriation Compensation	3	115	8	82
Fire Safety	-	NA	-	NA
Heritage Properties	-	NA	-	NA
Halifax-Dartmouth Bridge Commission	-	NA	-	NA
Motor Carrier – Public Passenger	79	11	85	9
Municipal & School Board Boundaries	3	32	-	NA
Natural Gas	23	27	17	32
Payday Loans	1	42	-	NA
Petroleum Product Pricing	53	0	53	0
Planning	7	27	8	60
Railways	-	NA	1	3
Underground Hydrocarbon Storage	1	11	-	NA
Water	64	18	58	20
Wastewater	18	12	11	11
Total	499		526	

<sup>4</sup> Where the average writing time is “0” all decisions were issued on the same day as the final information was received.

## Appeals of Board Orders

Board orders can be appealed to the Nova Scotia Court of Appeal when a party feels the Board has incorrectly applied the law or its authority. Appeals must be filed within 30 days of the date of issuance of the order. The following chart shows the number of appeals relating to Board proceedings decided by the Court of Appeal in the last 15 years and the outcome.<sup>5</sup>

**Chart 3 – Appeals Decided by Fiscal Year**



Key:

“Dismissed” means the Court upheld the Board’s decision.

“Allowed in Part” means the Court upheld parts of the Board’s decision but overturned others.

“Allowed” means the Court overturned the entire Board decision.

<sup>5</sup> Note that there were no appeals related to the Board decided in the year ended March 31, 2015 by the Court of Appeal.

### *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 Labour 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 2018-2019:

Information Required under Section 18 of the Act	Fiscal Year 2018-2019
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. *Apprenticeship and Trades Qualification Act*, S.N.S. 2003, c. 1 as amended
3. *Consumer Protection Act*, R.S.N.S. 1989, c.92 as amended
4. *Education (CSAP) Act*, S.N.S. 1995-96, c.1 as amended [Loi sur l'éducation (CSAP) 1995-96, ch.1 modifié]
5. *Efficiency Nova Scotia Corporation Act*, S.N.S. 2009, c.3 as amended
6. *Electrical Installation and Inspection Act*, R.S.N.S. 1989, c. 141 as amended
7. *Electricity Act*, S.N.S. 2004 c. 25 as amended
8. *Electricity Efficiency and Conservation Restructuring (2014) Act*, SNS 2014, c.5
9. *Electricity Plan Implementation (2015) Act*, S.N.S. 2015, c.31
10. *Endangered Species Act*, SNS 1998, c.11 as amended
11. *Energy and Mineral Resources Conservation Act*, R.S.N.S., 1989, c.147 as amended
12. *Expropriation Act*, R.S.N.S. 1989, c. 156 as amended
13. *Fire Safety Act*, S.N.S. 2002, c.6
14. *Gaming Control Act (Part II)*, S.N.S. 1994-95, c. 4 as amended
15. *Gas Distribution Act*, S.N.S., 1997, c. 4 as amended
16. *Halifax-Dartmouth Bridge Commission Act*, R.S.N.S. 1989, c.192 as amended
17. *Halifax Regional Municipality Charter*, S.N.S. 2008, c.39
18. *Halifax Regional Municipality Water Commission Act*, S.N.S. 1963, c.55 as amended
19. *Heritage Property Act*, R.S.N.S. 1989, c.199 as amended
20. *Insurance Act*, R.S.N.S. 1989, c.231 as amended<sup>6</sup>
21. *Liquor Control Act*, R.S.N.S. 1989, c.260 as amended
22. *Maritime Link Act*, S.N.S. 2012, c. 9
23. *Motor Carrier Act* (public passenger only), R.S.N.S. 1989, c.292 as amended
24. *Motor Vehicle Transport Act of Canada*, S.C. 1987, c.35 (Federal) as amended
25. *Municipal Government Act*, S.N.S. 1998, c.18 as amended
26. *Nova Scotia Power Finance Corporation Act*, R.S.N.S. 1989, c.351 as amended
27. *Nova Scotia Power Privatization Act*, S.N.S. 1992, c.8 as amended
28. *Petroleum Products Pricing Act*, S.N.S., 2005, c. 11
29. *Petroleum Resources Act*, R.S.N.S. 1989, c. 342 as amended
30. *Petroleum Resources Removal Permit Act*, S.N.S. 1999 c.7 as amended
31. *Pipeline Act*, R.S.N.S. 1989 c. 345 as amended
32. *Public Utilities Act*, R.S.N.S. 1989, c.380 as amended
33. *Railways Act*, S.N.S. 1993, c.11 as amended
34. *Revenue Act*, S.N.S. 1995-96, c.17 as amended
35. *Technical Safety Act*, S.N.S. 2008, c.10<sup>7</sup>
36. *Theatre and Amusement Act*, R.S.N.S. 1989, c. 466 as amended
37. *Underground Hydrocarbons Storage Act*, S.N.S. 2001, c. 37
38. *Utility and Review Board Act*, S.N.S. 1992, c. 11 as amended
39. *Victims' Rights and Services Act*, R.S.N.S. 1989, c.14 as amended

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<sup>6</sup> Automobile insurance only.

<sup>7</sup> Sections relating to the Board not yet fully proclaimed.