



**Nova Scotia Utility and Review Board  
Annual Accountability Report  
For the Fiscal Year Ended March 31, 2024**

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## *Accountability Statement*

The Accountability Report of the Nova Scotia Utility and Review Board for the year ended March 31, 2024, 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 2023-2024. The reporting of the Board's outcomes necessarily includes estimates, judgments, 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 2023-2024 Business Plan.

//Original Signed By//

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Stephen T. McGrath, K.C., Chair

//Original Signed By//

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Paul G. Allen, CPA, CA, Executive Director

## Introduction

This Accountability Report reflects progress achieving the outcomes in the Board's 2023-2024 Business Plan and should be read with that Business Plan.

## Financial Results

<b>Nova Scotia Utility and Review Board - Estimated Budget Expenditures</b>				
	Budget 2023- 2024	Actual 2023- 2024	Variance	See Notes
	000's	000's	000's	
Revenues (non-capital):				
Operating Grant from Province of Nova Scotia	2,221	2,221	0	
Recoveries from utilities and others	4,485	4,510	25	
Unbudgeted operations	0	4,117	4,117	1
Total revenues	6,706	10,848	4,142	
Expenditures (non-capital):				
Budgeted	6,706	6,675	(31)	
Unbudgeted operations	0	4,183	4,183	1
Total expenditures	6706	10,858	4,152	
Net surplus or (deficit)	0	(10)	(10)	
Restricted & unrestricted surplus, beginning of year	2,499	2,499	0	
Restricted & unrestricted surplus, end of year	2,499	2,489	(10)	2
Funded Members and staff (FTE's)	43	42	(1)	

### Notes:

1. The Board engages consultants for advice about matters such as utility and natural gas operations and for expert testimony during hearings. Consulting fees for specific hearings are generally recovered from the entities involved. Expenses and recoveries for large hearings cannot be reasonably predicted or estimated in advance so, 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 Board's complete audited financial statements are published annually in Part II of the Public Accounts for the Province of Nova Scotia. The 2023-2024 financial statements were prepared following Canadian Public Sector Accounting Standards of the Public Sector Accounting Board of the Chartered Professional Accountants of Canada.

## *Measuring Our Performance*

The Board's core mandate is to resolve matters fairly and independently in an efficient and effective manner. Performance measurement in a quasi-judicial context must reflect the "unique" nature of many applications and appeals. For example, some hearings require the Board to review a substantial volume of evidence, involve many parties, and can take many months to schedule and complete. Other matters require the Board to consider less 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 unbiased, timely, fair, and well reasoned decisions that are justified by the relevant legal and factual considerations.

<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.
<b>Where are we now and reporting on 2023-2024 targets?</b>	<p>As can be seen from Schedule 1 below there is a combined success rate of 100.0% for all cases (2022-2023: 100.0%). While annual results have been routinely above the performance goal of releasing at least 95% of decisions within target writing times, this is the second year where <u>all</u> decisions were within the target times.</p>

Annual variations in average times are expected. 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 and cause the average number of days to decide to decrease. We try 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 held constant at 100.0% (2022-2023: 100.0%).

Within the 60-day category, a total of eleven planning matters were all decided within the target writing time – a success rate of 100.0% (2022-2023: 100.0%). Average writing time increased to 58 days (2022-2023: 50 days).

There were no matters decided in the current year with a target writing time of 20 days (2022 -2023: no matters in this category). Consequently, it has been excluded from the schedules below.

Weekly gasoline and diesel oil price settings and interruptions must be heard and decided on the same day. The number of price settings fell back to 56 in the current year. Comparatively, volatility in commodity markets for these products in the 2022-2023 preceding year resulted in an unusually large number of price settings - 83 in total. The expected number of price settings in a routine year is 52 or 53.

The total number of decisions and average decision writing times by mandate are presented in Schedule 2.

**Where do we want to be?**

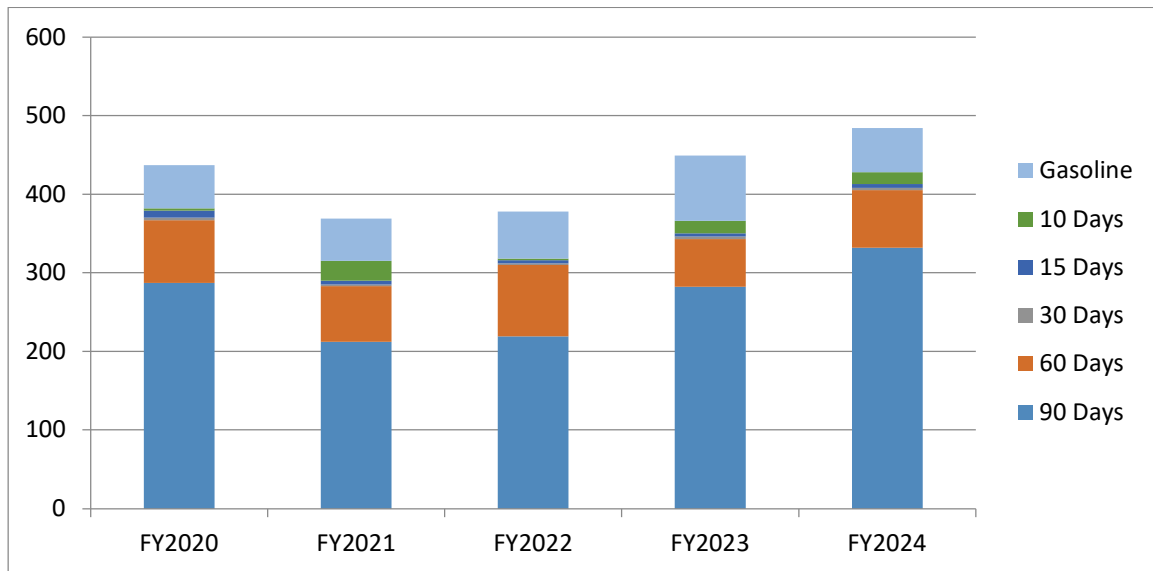
The Board measures success against the target writing times for each type of matter. We want our success rate as high as possible while respecting a primary emphasis on producing unbiased, timely, fair, and well-reasoned decisions that are justified by the relevant legal and factual considerations. The Board will continue to monitor this information to keep average writing times as low as reasonable. No targets have been set for average times to decision because of the higher priority placed on fairness and correctness. More targets may be added in future.

## 1. Schedule 1 – Success by Writing Time

Summary results for compliance with policy on decision production times are as follows. (see Note 1 on page 8):

Decision writing targets <sup>1</sup>	2023-2024			2022-2023		
	Number of Matters Decided	Matters Within Standard	Success Rate	Number of Matters Decided	Matters Within Standard	Success Rate
90 days	332	332	100.0%	282	282	100.0%
60 days	73	73	100.0%	61	61	100.0%
30 days	3	3	100.0%	3	3	100.0%
15 days	5	5	100.0%	4	4	100.0%
10 days	15	15	100.0%	16	16	100.0%
Gasoline and diesel oil price setting <sup>2</sup>	56	56	100.0%	83	83	100.0%
Combined	484	484	100.0%	449	449	100.0%

Chart 1 – Comparison of Number of Matters by Writing Time<sup>3</sup> - Last 5 Years

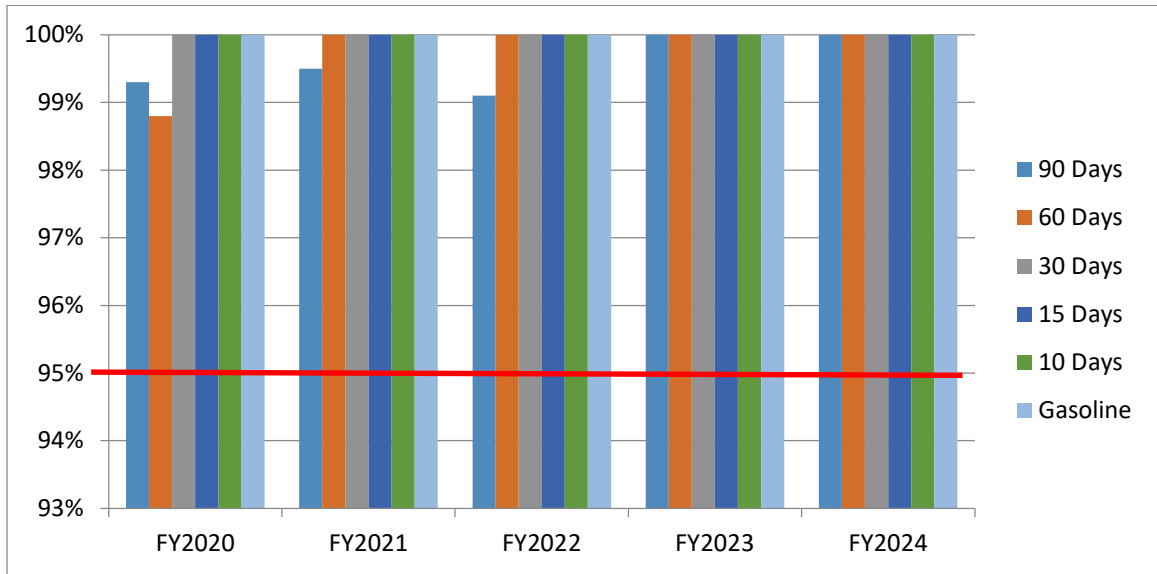


<sup>1</sup> Decision writing times are measured from the date of receipt of final information to the date of issuance of the Decision. 10-day matters are measured in working days. All others are calendar days.

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

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

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



Notes:

1. The Board may receive several 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*

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

The following schedule shows the number of matters 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 that can be decided without an oral hearing from larger cases requiring one.

Average decision production times by mandate are as follows (continued on following page):

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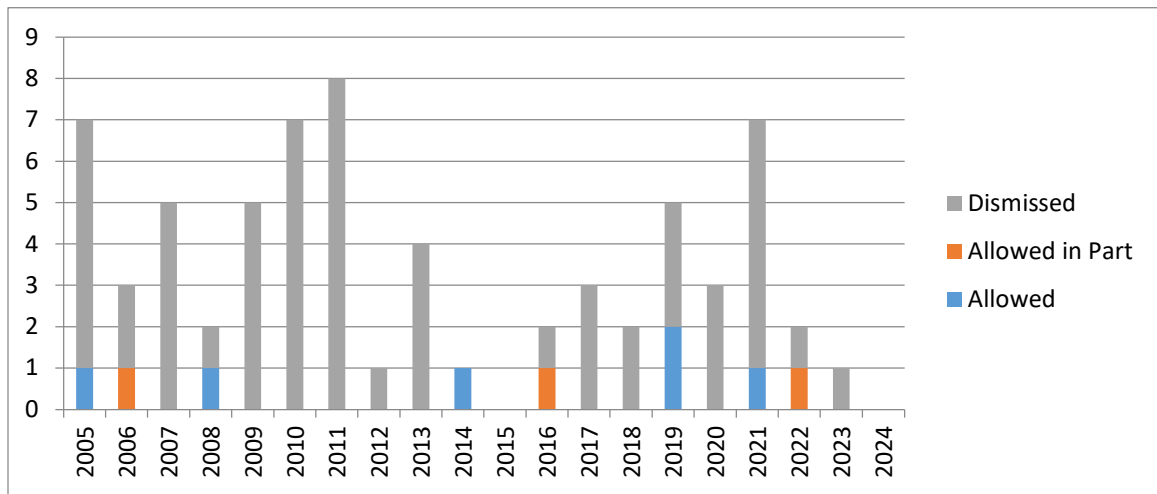
Jurisdiction / Mandate	2023-2024		2022-2023	
	Number of Decisions (all types)	Average Time to Decision (days) <sup>4</sup>	Number of Decisions (all types)	Average Time to Decision (days) <sup>4</sup>
Gaming	-	NA	-	NA
Liquor	-	NA	-	NA
Theatre & Amusements	-	NA	-	NA
Assessment	15	25	12	33
Automobile Insurance	73	31	61	22
Criminal Injury Compensation	1	77	1	81
Electricity	115	39	86	31
Expropriation Compensation	-	-	2	45
Fire Safety	4	47	-	NA
Heritage Properties	-	NA	-	NA
Halifax-Dartmouth Bridge Commission	-	NA	-	NA
Motor Carrier – Public Passenger	79	14	80	6
Municipal & School Board Boundaries	34	36	15	24
Natural Gas	12	15	17	10
Payday Loans	-	-	1	49
Petroleum Product Pricing – weekly pricing and interruptions	56	0	84	0
Petroleum Product Pricing – other	1	64	1	0
Planning	11	58	9	50
Railways	1	4	-	NA
Underground Hydrocarbon Storage	-	-	1	7
Water	70	20	63	24
Wastewater	12	7	16	15
Apprenticeship	-	NA	-	NA
<b>Total</b>	<b>484</b>		<b>449</b>	

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

### 3. 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. The following chart shows the number of appeals from Board proceedings decided by the Court of Appeal in the last 20 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.

### 4. Comments on Strategic Items from 2023-2024 Business Plan

The Board’s 2023-2024 Business Plan noted that the Board’s 2016 strategic plan was complete and that a new plan was expected to be completed by July 2023. We are pleased to report that the plan was completed as expected in late June and sets out the following five strategic priorities with their attendant goals:

- Increase public understanding of the UARB and how to access its processes:
  - Increase public outreach with a view to:
    - targeting those who could or should engage with the UARB; and
    - creating greater opportunities for equitable access.
- Heighten the efficiency and effectiveness of the UARB.
  - Maintain a culture of continuous improvement.

<sup>5</sup> There were no appeals from Board proceedings decided by the Court of Appeal in the years ended March 31, 2015 and March 31, 2024

- Maintain a healthy and positive workplace culture that strives to achieve excellence:
  - Review and sharpen internal communications and engagement.
  - Ensure that the workplace is diverse, equitable, inclusive, accessible, and safe.
- Strengthen the UARB’s capacity to innovate and inform public policy:
  - Continually advance our knowledge about best practices and technologies; local, national, and international trends and events; and how they impact matters and sectors within the Board’s jurisdiction with a focus on the energy transition.
  - Increase engagement with policy decision-makers and stakeholders.
  - Provide training, education and professional development to all members and employees to ensure they have the required skills, knowledge and understanding to effectively respond to changing regulatory and adjudicative environments.

Work on the goals has been delayed until 2024 due to other work priorities.

## **5. Other 2023-2024 Business Plan Priorities**

### Operational Sustainment:

The number of hearings incorporating virtual technology continues to increase. More venues have been identified around the province that have the infrastructure to allow virtual and hybrid (partially virtual) hearings. This type of hearing appears to have been well received by most parties and is now considered to be routinely available.

### Major Hearings:

The statutory eight-year review of municipal electoral boundaries was substantially concluded within the year as expected. At year end only one filing remained outstanding, that being the County of Antigonish. That filing was delayed at the County’s request in anticipation of new legislation that would consolidate the County and the Town of Antigonish. The legislation did not pass.

The following significant cases referred to in the Business Plan were received or concluded as expected during the year:

- Eastward Energy general rate application was concluded in June 2023. (M10960)
- A wholesale margin application for gasoline and diesel oil prices was concluded in August 2023. (M10853)
- Nova Scotia Power Inc. fuel adjustment mechanism audit for the years 2020 and 2021 was concluded in February 2024. (M10416)

- NS Power filed an update of the Extra Large Industrial Active Demand Control (ELIADC) tariff was filed in March 2024 and is ongoing. (M11588)
- A review of Nova Scotia Power Inc's capital asset classes pursuant to Section 30(5) of the *Public Utilities Act* was concluded in March 2024. (M11067)
- A review of Nova Scotia Power Inc's interconnection processes pursuant to Section 2C of the *Electricity Act* was started in December 2023 and is ongoing. (M10905)

## **6. Subsequent Event – Energy Reform (2024) Act**

In February 2024 government introduced Bill 404 – the *Energy Reform (2024) Act* which, when proclaimed, will have the following effects:

- The *Utility and Review Board Act* will be repealed and replaced with the *Energy and Regulatory Boards Act*. This new statute will create a new Nova Scotia Energy Board and a new Nova Scotia Regulatory and Appeals Board. These new boards will be divisions within the Nova Scotia Energy and Regulatory Boards Tribunal. The tribunal is a continuation of the Utility and Review Board and is responsible for providing administrative, financial, technology and professional support to the new boards.
- The new act charges the Nova Scotia Energy Board with considering new factors when making decisions in all matters over which it has authority.
- Introduction of a new act – the *More Access to Energy Act* – which creates a new not-for-profit Independent Energy System Operator (NSIESO). This change will remove responsibility for several system and planning functions from Nova Scotia Power Inc. The Nova Scotia Energy Board will be the regulator of the new NSIESO.

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## *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 2023-2024:

Information Required under Section 18 of the <i>Act</i>	Fiscal Year 2023-2024
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
2. *Apprenticeship and Trades Qualification Act*, S.N.S. 2003, c.1
3. *Consumer Protection Act*, R.S.N.S. 1989, c.92
4. *Education (CSAP) Act*, S.N.S. 1995-96, c.1 [Loi sur l'éducation (CSAP) 1995-96, ch.1]
5. *Electrical Installation and Inspection Act*, R.S.N.S. 1989, c.141
6. *Electricity Act*, S.N.S. 2004 c.25
7. *Electricity Efficiency and Conservation Restructuring (2014) Act*, SNS 2014, c.5
8. *Electricity Plan Implementation (2015) Act*, S.N.S. 2015, c.31
9. *Endangered Species Act*, SNS 1998, c.11
10. *Energy Resources Conservation Act*, R.S.N.S., 1989, c.147
11. *Expropriation Act*, R.S.N.S. 1989, c.156
12. *Fire Safety Act*, S.N.S. 2002, c.6
13. *Gaming Control Act (Part II)*, S.N.S. 1994-95, c.4
14. *Gas Distribution Act*, S.N.S., 1997, c.4
15. *Halifax-Dartmouth Bridge Commission Act*, R.S.N.S. 1989, c.192
16. *Halifax Regional Municipality Charter*, S.N.S. 2008, c.39
17. *Halifax Regional Municipality Water Commission Act*, S.N.S. 2007, c.55
18. *Health Protection Act*, S.N.S. 2004, c. 4
19. *Heritage Property Act*, R.S.N.S. 1989, c.199
20. *Insurance Act*, R.S.N.S. 1989, c.231
21. *Liquor Control Act*, R.S.N.S. 1989, c.260
22. *Marine Renewable-energy Act*, SNS 2015, c.32
23. *Maritime Link Act*, S.N.S. 2012, c. 9
24. *Mineral Resources Act*, SNS 2016, c.3
25. *Motor Carrier Act (public passenger only)*, R.S.N.S. 1989, c.292
26. *Motor Vehicle Transport Act of Canada*, S.C. 1987, c.35 (Federal)
27. *Municipal Government Act*, S.N.S. 1998, c.18
28. *Nova Scotia Power Privatization Act*, S.N.S. 1992, c.8
29. *Petroleum Products Pricing Act*, S.N.S., 2005, c.11
30. *Petroleum Resources Act*, R.S.N.S. 1989, c.342
31. *Petroleum Resources Removal Permit Act*, S.N.S. 1999 c.7
32. *Pipeline Act*, R.S.N.S. 1989 c.345
33. *Public Utilities Act*, R.S.N.S. 1989, c.380
34. *Railways Act*, S.N.S. 1993, c.11
35. *Revenue Act*, S.N.S. 1995-96, c.17
36. *Riverport Electric Light Act for Polling District No. 2, in the County of Lunenburg*, S.N.S. 1920, c. 149.
37. *Subsurface Energy Storage Act*, S.N.S. 2001, c. 37
38. *Technical Safety Act*, S.N.S. 2008, c.10
39. *Theatres and Amusements Act*, R.S.N.S. 1989, c.466
40. *Utility and Review Board Act*, S.N.S. 1992, c.11
41. *Victims' Rights and Services Act*, R.S.N.S. 1989, c.14