



**Nova Scotia Utility and Review Board  
Business Plan  
2019-2020**

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## **A. BOARD MANDATE**

### **Mandate**

The Board has a broad quasi-judicial mandate set by legislation. The mandate can be broken down in two ways:

1. Regulatory – having to do with:
  - a. Approving requests from regulated commercial entities such as public utilities (e.g., water, wastewater, electricity, natural gas), motor carriers, railways, the Halifax-Dartmouth Bridge Commission, payday loan companies, and automobile insurers for things such as rates, capital expenditures, operating permits, and discontinuing or abandoning service;
  - b. Setting the price for gasoline and diesel sold to the public; and,
  - c. Resolving complaints against utilities and motor carriers.
2. Adjudicative – having to do with:
  - a. Appeals from the decisions of others relating to such things as property value, fire safety, municipal planning, liquor licensing, movie classifications, and gaming at casinos;
  - b. Setting the value of expropriated land when it cannot be agreed on by the parties involved; and,
  - c. Approving requests pertaining to municipalities and the CSAP such as changing electoral boundaries, dissolution, amalgamation and annexations.

The specific powers and duties of the Board vary by statute. A complete list of statutes is included as Appendix A.

## **B. PRIORITIES**

### **Strategic Plan**

The Board's main priority, as noted above, is carrying out the mandates assigned to it by the Legislature. Occasionally, the Board will consult with our stakeholders to consider how we can more efficiently and effectively deliver our services. Such discussions informed our 2016 Strategic Plan. The direction set out in the 2016 Strategic Plan continues to be relevant and is the basis for this Business Plan.

While the 2016 Strategic Plan is substantially complete, efforts will continue throughout fiscal 2020 on the following strategic priorities:

1. Increasing the public's understanding of the Board by implementing a strategic communications and outreach plan that meets both external stakeholder and internal member and employee needs.
2. Heightening the efficiency and effectiveness of the Board by:
  - a. Maintaining a culture of continuous improvement.
  - b. Assessing staff roles and internal processes to promote service effectiveness and efficiencies.
3. Fostering a positive and healthy workplace culture that strives to achieve excellence by:
  - a. Implementing effective internal communications.
  - b. Promoting cross-organizational relationship building at all levels to achieve greater teamwork and collaboration.
  - c. Continuing to review and improve human resource policies and practices.
4. Strengthening the Board's capacity to innovate and adapt to the future by:
  - a. Continually advancing our knowledge about best practices; local, national and international trends and events; and how they impact matters and sectors within the Board's jurisdiction.
  - b. Providing 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.

A copy of the 2016 Strategic Plan, including specific objectives relating to the priorities above, can be found on the Board's website at: <https://nsuarb.novascotia.ca/about/plans-reports>

### **Duty to Consult**

In July 2017, the Supreme Court of Canada released two important decisions relating to an administrative tribunal's jurisdiction and function with respect to Crown consultation in the context of aboriginal and treaty rights<sup>1</sup>. These decisions clarify the Board's role where its decisions may impact on aboriginal rights, including asserted treaty rights and aboriginal title issues. The Board may be called upon to determine whether sufficient Crown consultation has occurred.

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<sup>1</sup> See: *Chippewas of Thames First Nation v. Enbridge Pipelines Inc.*, 2017 SCC 41 (CanLII); *Clyde River (Hamlet) v. Petroleum Geo-Services Inc.*, 2017 SCC 40 (CanLII)

In 2019 fiscal year the Board prepared a draft protocol which it has tentatively adopted for current applications considered by the Board. It continues to monitor ongoing case law, including appeals related to the Board on this issue.

During the 2020 fiscal period, one of the Board's objectives will continue to be the implementation of the protocol setting out the process to be followed in such instances. This will involve consultation with various stakeholders with the aim of ensuring the Board's jurisdiction and function is properly discharged and an effective and efficient hearing process is maintained.

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## C. BUDGET CONTEXT

<b>Nova Scotia Utility &amp; Review Board</b>			
Program & Service Area	2018 – 2019 Estimate	2018 – 2019 Forecast <sup>2</sup>	2019- 2020 Budget
	(\$thousands)	(\$thousands)	(\$thousands)
Gross expenses:			
Quasi-judicial - budgeted operations	6,036	5,900	6,080
Quasi-judicial - unbudgeted operations <sup>3</sup>	0	1,932	0
Total expenses	6,036	7,832	6,080
Revenues:			
Grant from Province of Nova Scotia	2,006	2,006	2,090
Recoveries from utilities and others	3,975	3,912	3,990
Recoveries - unbudgeted operations <sup>4</sup>	0	1,917	0
Total revenues	5,981	7,835	6,080
Net income (loss)	(55)	3	0
Restricted and unrestricted surplus <sup>5</sup> - beginning of year	1,760	1,760	1,763
Restricted and unrestricted surplus - end of year	1,705	1,763	1,763

<sup>2</sup> Figures provided are forecasts. Actual results may differ.

<sup>3</sup> Unbudgeted operations expenses arise from hearing activities that cannot reasonably be forecast in advance. Most of these expenses are recovered from the applicant or appellant, or party requesting the service.

<sup>4</sup> See footnote 2 above.

<sup>5</sup> Surpluses may be restricted for things such as capital assets in use, working capital requirements, and incomplete projects for which revenues have been received.

## D. PERFORMANCE MEASURE

Quasi-judicial Function					
Outcome	Measure	Data Base Year	Trends	Target 2019-2020	Strategies to Achieve Target
Independently and fairly resolve matters in a timely fashion <sup>6</sup> .	Percentage of hearing decisions issued within target number <sup>7</sup> of writing days from receipt of final submissions.	Base Year 2006-07 94.0%	Trends: See chart on next page	Maintain 95% or more of decisions released within target number of writing days from receipt of final submissions.	<ul style="list-style-type: none"> <li>- Use of electronic filing, information repository and case management programs to aid in processing.</li> <li>- Continue monitoring of member and staff performance through monthly Board meetings.</li> <li>- Periodic consultation with external parties to seek ways to improve services.</li> </ul>

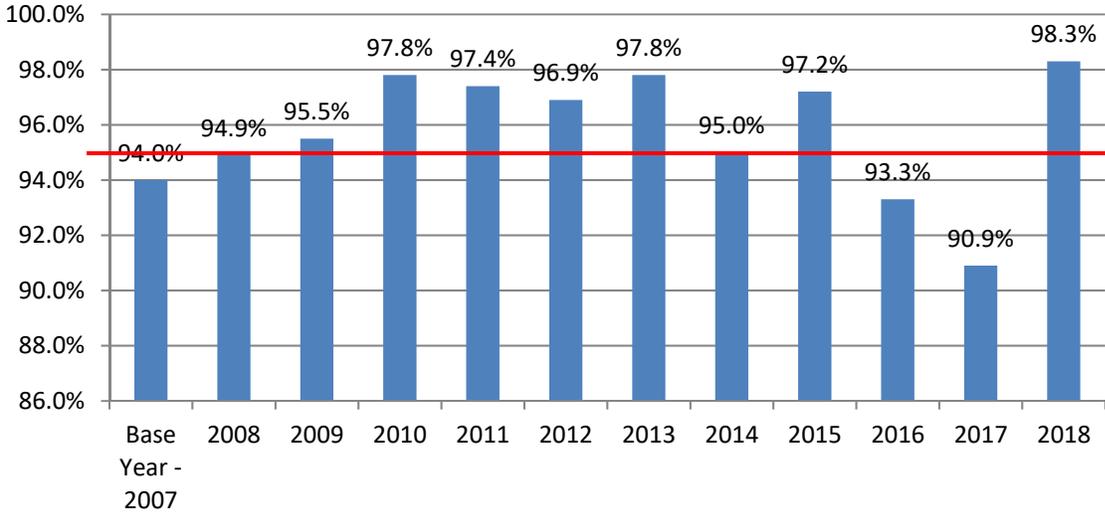
The following chart shows the Board's actual performance in meeting its target of having 95% or more of decisions released within the target writing time.

<sup>6</sup> While timely production of decisions is important the primary emphasis must always be to fairly resolve matters based on the specific facts of each case and relevant law.

<sup>7</sup> Target writing times vary by mandate and type of file. Ordinary matters have a target of 90 days. Planning matters have a statutory limit of 60 days unless extended by the Board at the conclusion of the hearing or necessary for the interests of justice. Some insurance matters have statutory limits of 10, 15, 20, or 60 days. At the Board's discretion timelines for some insurance matters can be extended. Routine procedural matters have a target of 10 working days. Note that these timelines are measured from the date of receipt of final submissions.

# Decisions Within Target Writing Time

## Results by Fiscal Year



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## Appendix A: List of Statutes Containing Board Mandate

1. Assessment Act, RSNS 1989, c.23 as amended
2. Apprenticeship and Trades Qualification Act, SNS 2003, c.1 as amended
3. Consumer Protection Act, RSNS 1989, c.92 as amended
4. Education (CSAP) Act, SNS 1995-96, c.1 as amended  
[Loi sur l'éducation (CSAP) 1995-96, ch.1 modifié]
5. Efficiency Nova Scotia Corporation Act, SNS 2009, c.3 as amended
6. Electrical Installation & Inspection Act, RSNS1989, c. 141 as amended
7. Electricity Act, SNS 2004, c. 25 as amended
8. Electricity Efficiency and Conservation Restructuring (2014) Act, SNS 2014, c.5
9. Electricity Plan Implementation (2015) Act, SNS 2015, c.31 as amended
10. Endangered Species Act, SNS 1998, c.11 as amended
11. Energy and Mineral Resources Conservation Act, RSNS 1989, c.147 as amended
12. Expropriation Act, RSNS 1989, c.156 as amended
13. Fire Safety Act, SNS 2002, c. 6
14. Gaming Control Act, SNS 1994-95, c.4 as amended
15. Gas Distribution Act, SNS 1997, c. 4 as amended
16. Halifax-Dartmouth Bridge Commission Act, RSNS 1989, c.192 as amended
17. Halifax Regional Municipality Charter, SNS 2008, c.39 as amended
18. Halifax Regional Water Commission Act, Acts of 2007, c. 55 as amended
19. Heritage Property Act, RSNS 1989, c.199 as amended
20. Insurance Act, RSNS 1989, c. 231 as amended
21. Liquor Control Act, RSNS 1989, c. 260 as amended
22. Maritime Link Act, SNS 2012, c. 9 as amended
23. Motor Carrier Act, RSNS 1989, c.292 as amended
24. Motor Vehicle Transport Act of Canada, 1987 as amended (Federal)
25. Municipal Government Act, SNS 1998, c.18 as amended
26. Nova Scotia Power Finance Corporation Act, RSNS 1989, c.351 as amended
27. Nova Scotia Power Privatization Act, SNS 1992, c.8
28. Petroleum Products Pricing Act, SNS 2005, c. 11
29. Petroleum Resources Removal Permit Act, SNS 1999, c.7 as amended
30. Pipeline Act, SNS 1980, c. 13 as amended
31. Public Utilities Act, RSNS 1989, c.380 as amended
32. Railways Act, SNS 1993, c.11 as amended
33. Revenue Act, SNS 1995-96, c.17 as amended
34. Technical Safety Act, SNS 2008, c. 10<sup>8</sup>
35. Theatres and Amusements Act, RSNS 1989, c. 466 as amended
36. Underground Hydrocarbons Storage Act, SNS 2001, c.37
37. Utility and Review Board Act, SNS 1992 as amended
38. Victims' Rights and Services Act, RSNS 1989, c.14 as amended

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<sup>8</sup> Partially proclaimed in force as of the date of writing of this plan.