

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE PUBLIC UTILITIES ACT

- and -

IN THE MATTER OF THE ELECTRICITY PLAN IMPLEMENTATION (2015) ACT

- and -

IN THE MATTER OF a hearing into **NOVA SCOTIA POWER INCORPORATED'S** 2017-2019 Fuel Stability Plan and Base Cost of Fuel Reset under the Fuel Adjustment Mechanism ("FAM") as required under the Electricity Plan Implementation (2015) Act

BEFORE:

Peter W. Gurnham, Q.C., Chair
Roland A. Deveau, Q.C., Vice-Chair
Roberta J. Clarke, Q.C., Member

APPLICANT:

NOVA SCOTIA POWER INCORPORATED
Colin J. Clarke, Q.C.
Brian Curry, LL.B.

COUNSEL:

CONSUMER ADVOCATE
John Merrick, Q.C.
William L. Mahody, Q.C.

SMALL BUSINESS ADVOCATE
E.A. Nelson Blackburn, Q.C.

INDUSTRIAL GROUP
Nancy G. Rubin, Q.C.

**MUNICIPAL ELECTRIC UTILITIES OF NOVA SCOTIA
CO-OPERATIVE**
Albert Dominie

**NOVA SCOTIA DEPARTMENT OF ENERGY and
DEPARTMENT OF ENVIRONMENT**
Sean Foreman, LL.B.

PORT HAWKESBURY PAPER LP
David MacDougall, LL.B.
Sara Mahaney, LL.B.

BOARD COUNSEL: S. Bruce Outhouse, Q.C.

HEARING DATE: June 13, 2016

FINAL SUBMISSIONS: June 29, 2016

DECISION DATE: July 19, 2016

DECISION: The Board sets the Base Cost of Fuel for 2017, 2018, 2019.

Table of Contents

1.0	INTRODUCTION	4
2.0	ELECTRICITY PLAN IMPLEMENTATION (2015) ACT	8
3.0	ISSUES.....	12
4.0	ANALYSIS AND FINDINGS.....	13
1.	Is the anticipated assessment for the Maritime Link appropriately reflected in rates?	13
	Findings.....	13
2.	Should the Board approve the Consensus Agreement as it relates to the Base Cost of Fuel for each of 2017, 2018 and 2019?	14
	Findings.....	15
3.	Should the Board approve the interim changes to the Plan of Administration and the Accounting Policy?	16
	Findings.....	17
4.	What reporting and auditing requirements should apply during the Rate Stability Period?	17
	Findings.....	19
5.	Should the Board approve the proposed hedging strategies or mechanisms?	20
	Findings.....	21
6.	Do any other matters arise from the evidence?.....	22
5.0	COMPLIANCE FILING.....	22

1.0 INTRODUCTION

[1] This Decision is further to a public hearing conducted by the Nova Scotia Utility and Review Board (“Board”) respecting an application filed on March 7, 2016, by Nova Scotia Power Incorporated (“NSPI”, “Company”, “Utility”) for approval of its Fuel Stability Plan for the period 2017 to 2019 (“Application”), as required under the *Electricity Plan Implementation (2015) Act* (“EPIA”).

[2] Under the Fuel Adjustment Mechanism (“FAM”) Plan of Administration (“POA”), NSPI is required to file an application to reset its Base Cost of Fuel (“BCF”) every second year or during a General Rate Application. If approved by the Board, the BCF is then reflected in rates, which are typically effective the following 1st day of January.

[3] However, the Province enacted the *EPIA*, which received Royal Assent on December 18, 2015. The *EPIA* requires NSPI to apply to the Board for approval of a Fuel Stability Plan that sets the amount customers will pay for fuel for the calendar years 2017, 2018 and 2019 (“Rate Stability Period” or “RSP”). Among other things, the *EPIA* provides that the Utility must forecast the increase in fuel prices that are expected to occur over the course of the Rate Stability Period and incorporate those costs into customer rates through its BCF under the FAM.

[4] An important element of the *EPIA* is that any changes in the BCF through the Rate Stability Period must be applied in equal annual increments (or decrements if fuel costs are expected to decrease) over the calendar years 2017, 2018 and 2019.

[5] On March 7, 2016, NSPI filed its Application for approval of its Fuel Stability Plan. The Utility applied for an average 1.3% annual increase in FAM customer rates in each year of the Rate Stability Period. Under the FAM, fuel is a direct pass-through cost to customers. Thus, customers only pay NSPI’s actual fuel costs. This does not change

under the Fuel Stability Plan. Actual fuel costs will be tracked during the duration of the Fuel Stability Plan and trued up at the end of the Rate Stability Period, which ends December 31, 2019.

[6] The *EPIA* also requires that NSPI include a forecast of fuel costs for 2020 in its Fuel Stability Plan. NSPI must also include a description of the hedging strategies or mechanisms which the Utility will use to manage its fuel costs during the Rate Stability Period, and a forecast of the amounts to be recovered in rates for the anticipated assessment against the Utility for the Maritime Link.

[7] Consistent with the normal practice in prior BCF proceedings, NSPI updated the BCF forecast contained in its original Application with pricing information as of March 31, 2016. It filed its 2017-2019 BCF Refresh on May 27, 2016. This 2017-2019 BCF Refresh reduced the overall annual average increase in FAM customer rates over the Rate Stability Period from 1.3% (as originally set out in the Application) to 1.0%. However, recognizing the concerns expressed by some about the possible 2020 rate impacts, NSPI indicated in its filing that it was:

... open to recovery of average annual rate increases in the range of 1.0 to 1.3 percent if such recovery is deemed to be in the best interest of customers and supports stable, predictable and affordable rates through the Rate Stability Period.

[Exhibit N-19, p. 11]

[8] NSPI also filed its most recent load forecast on May 2, 2016.

[9] On June 9, 2016, NSPI filed a Consensus Agreement, signed on the same date, which, first, outlined a settlement of the agreed upon Base Cost of Fuel for each year of the Rate Stability Period, and second, set out processes for the resolution of the remaining issues. The Consensus Agreement has the support of the Consumer Advocate (“CA”), the Small Business Advocate (“SBA”), the Industrial Group, and the Municipal

Electric Utilities of Nova Scotia Co-operative (“MEUNSC”). As confirmed in its Opening Statement, Port Hawkesbury Paper LP (“PHP”) does not oppose the Consensus Agreement.

[10] The operative terms of the Consensus Agreement (Exhibit N-31) are set out in Appendix A to the Agreement and are attached to this Decision.

[11] The Consensus Agreement filed in this matter is, in effect, a settlement agreement. In its previous Decisions, the Board has set out the principles it applies in its consideration of settlement agreements. In summary, the Board has stated that the execution of a settlement agreement represents “a success of the regulatory process, not a failure”. Further, the Board can have confidence that an agreement is in the public interest when it is supported by representatives of all of the customer classes. While it is always left to the Board to decide whether a settlement agreement warrants its approval, after reviewing all of the evidence filed in a proceeding the Board considers it appropriate to approve a settlement agreement when it is in the public interest to do so: *see Re Nova Scotia Power Incorporated*, 2008 NSUARB 140, paras. 12 – 18.

[12] The estimated revised percentage changes in rates per customer class were filed in Exhibit N-33 and will be confirmed in the Compliance Filing. The estimated annual rate increases resulting from the Consensus Agreement are as follows:

Percent Change in Revenues	
FAM Classes	2017 - 2019 BCF Consensus⁽¹⁾
Residential ⁽²⁾	1.3%
Small General	1.2%
General Demand	0.2%
Large General	3.7%
Total Commercial	0.7%
Small Industrial	0.5%
Medium Industrial	1.6%
Large Industrial	
Firm	1.2%
Interruptible	1.5%
Large Industrial Total	1.4%
Total Industrial	1.3%
Municipal	1.2%
Unmetered	0.5%
Total Other	0.8%
Total FAM Classes	1.1%

Footnotes

(1) Rounded to one decimal point.

(2) Preliminary estimate based on Muskrat Falls energy flow commencing April 1, 2019. All other classes based on flow commencing January 1, 2019.

[Exhibit N-33]

[13] A total of 10 formal Intervenor responded to the Application of NSPI. The CA; SBA; the Industrial Group, whose counsel represented 12 Intervenor; the MEUNSC; PHP; and the Nova Scotia Departments of Energy and Environment (the “Province”) all participated in the hearing. The Board also received one written submission from a member of the public respecting NSPI’s Application, and one person appeared at the evening session.

[14] S. Bruce Outhouse, Q.C., acted as Board Counsel.

[15] In addition to NSPI's filings, the CA filed evidence of Jonathan Wallach, of Resource Insight, Inc. ("Resource Insight"), and the SBA filed evidence of Melissa Whitten, of Daymark Energy Advisors, Inc. ("Daymark"). Mark Drazen of the Drazen Consulting Group, Inc., filed a report on behalf of the Industrial Group. Finally, the Board Counsel consultant, The Liberty Consulting Group ("Liberty"), also filed evidence providing its comments on the Application.

[16] Information Requests ("IRs") were also exchanged by various parties in advance of the hearing.

[17] The public hearing was conducted by the Board on Monday, June 13, 2016, in its hearing room in Halifax, Nova Scotia.

2.0 ELECTRICITY PLAN IMPLEMENTATION (2015) ACT

[18] The relevant provisions of the *EPIA* include:

- 3 Nova Scotia Power shall prepare a Fuel Stability Plan for the Rate Stability Period.
- 4 (1) The Fuel Stability Plan must include
 - (a) a forecast of Nova Scotia Power's fuel and purchased power costs for a period ending no sooner than December 31, 2020;
 - (b) a proposed base cost of fuel under the Fuel Adjustment Mechanism for each calendar year during the Rate Stability Period;
 - (c) any proposed changes in the base cost of fuel through the Rate Stability Period;
 - (d) a description of any hedging strategies or mechanisms proposed to be used by Nova Scotia Power to manage fuel costs during the Rate Stability Period; and
 - (e) a forecast of the amounts to be recovered through Nova Scotia Power's rates in respect of the anticipated assessment against it pursuant to Section 5E of the Maritime Link Act.
- (2) The recovery of forecasted amounts in clause (1)(e) must be included in the base cost of fuel during the Rate Stability Period and is subject to subsection 6(2).

- (3) Notwithstanding the recovery of forecasted amounts referred to in clause (1)(e) through the base cost of fuel, amounts in respect of the forecasted assessment may be allocated to Nova Scotia Power's customers on any basis subject to the approval of the Board.
 - (4) Nova Scotia Power may include a proposal to phase in the recovery of the assessment through its rates for a period not exceeding five years.
 - (5) The phase-in may be accommodated by the early inclusion or deferral in rates of a portion of Nova Scotia Power's costs relating to the assessment or by a similar mechanism.
- 5 Nova Scotia Power shall apply to the Board for approval of the Fuel Stability Plan before the start of the Rate Stability Period or by such earlier date as may be prescribed by the regulations.
- 6
 - (1) The Board shall approve the Fuel Stability Plan, subject to any changes, terms or conditions or other requirements considered appropriate by the Board and, without limiting the generality of the foregoing, approve
 - (a) a base cost of fuel under the Fuel Adjustment Mechanism for each calendar year during the Rate Stability Period, including an amount for the recovery of the anticipated assessment against Nova Scotia Power pursuant to Section 5E of the Maritime Link Act; and
 - (b) the hedging strategies or mechanisms to be used by Nova Scotia Power to manage fuel costs during the Rate Stability Period.
 - (2) Any changes in the base cost of fuel through the Rate Stability Period must be applied in equal annual increments or decrements over the calendar years 2017, 2018 and 2019.
 - (3) Where Nova Scotia Power's application includes a phasing of the recovery of the assessment pursuant to Section 5E of the Maritime Link Act into its rates pursuant to subsection 4(4), the Board may approve a phase-in of the recovery of the assessment through Nova Scotia Power's rates for a period not exceeding five years.
 - (4) Notwithstanding the approval of any hedging strategy or mechanism to be used to manage fuel costs during the Rate Stability Period, Nova Scotia Power shall apply to the Board for the approval of revised hedging strategies or mechanisms in the event that a change in circumstances relating to fuel costs makes it no longer reasonable to adhere to the approved hedging strategy or mechanism.
- 7 Nova Scotia Power Incorporated shall comply with the approved Fuel Stability Plan.
- 8
 - (1) The base cost of fuel under the Fuel Adjustment Mechanism may not be reset during the Rate Stability Period but may change pursuant to clause 6(1)(a).
 - (2) The incentive component of the Fuel Adjustment Mechanism is suspended during the Rate Stability Period.

- 9** The base cost of fuel must be reset for 2020 and Nova Scotia Power shall apply to the Board for the approval of the reset base cost of fuel so that it may be in place on January 1, 2020.
- 10** Notwithstanding any requirement of the Fuel Adjustment Mechanism for annual adjustments, any adjustments implemented on January 1, 2017, must remain in place throughout the Rate Stability Period and must be adjusted so that any intended recovery or reimbursement of costs is made over the course of the Rate Stability Period.
- 11** (1) Subject to Section 12, any variance in the actual recovery of the base cost of fuel and other costs approved for recovery through the Fuel Adjustment Mechanism from the approved forecasted recovery of those costs during the Rate Stability Period must be addressed through adjustments made pursuant to the Fuel Adjustment Mechanism to be implemented on January 1, 2020.
- (2) Nova Scotia Power shall apply to the Board for the approval of these adjustments so that they may be implemented on January 1, 2020.
- 12** (1) The Board may approve adjustments made pursuant to the Fuel Adjustment Mechanism for implementation during the Rate Stability Period in respect of exceptional circumstances resulting in a variance in the actual recovery of the base cost of fuel and other costs approved for recovery through the Fuel Adjustment Mechanism from the approved forecasted recovery of those costs that the Board determines has caused or will cause substantial financial harm to Nova Scotia Power or its customers.
- (2) The Board shall not make a determination pursuant to subsection (1) until it has held a hearing to determine whether exceptional circumstances exist as set out in that subsection.
- 13** For greater certainty, nothing in Sections 3 to 12 restricts or suspends any reporting or auditing requirements of the Fuel Adjustment Mechanism, except that no hearing relating to an audit may occur during the Rate Stability Period other than for the purpose of setting the base cost of fuel for the calendar year 2020.
- 14** (1) Where Nova Scotia Power's regulated rate of return on equity exceeds the range approved by the Board for the calendar years 2015, 2016, 2017, 2018 and 2019, any amount that exceeds that range is deemed to be an overrecovery of fuel costs.
- (2) Any excess earnings in respect of the calendar years 2015 and 2016 must be incorporated through the Rate Stability Period in the base cost of fuel that is approved pursuant to clause 6(1)(a).
- (3) For greater certainty, annual adjustments pursuant to the Fuel Adjustment Mechanism may be made in 2016 in respect of the calendar year 2015 but, subject to Section 16, may not include any amounts relating to excess earnings.
- (4) Any excess earnings during the Rate Stability Period must be addressed in the same manner as an overrecovery of fuel costs under Sections 11 and 12.

- (5) To the extent that any past or future order of the Board is inconsistent with the treatment of excess earnings required by this Section, the order of the Board is of no force and effect in respect of the inconsistency.
 - (6) For greater certainty, nothing in this Section affects the operation of the Public Utilities Act or any order of the Board as they may apply in respect of earnings exceeding Nova Scotia Power's approved regulated rate of return on equity in calendar years other than 2015, 2016, 2017, 2018 and 2019.
- 15**
- (1) The tax difference at any time before the coming into force of this Section up to December 31, 2019, arising from the inclusion of Nova Scotia Power's property and assets in the South Canoe Wind Project and the Sable Wind Project in its rate base pursuant to Sections 35B and 35D of the Public Utilities Act on a cash tax basis with deferred taxes offset to a regulatory asset or liability as appropriate compared to a deferred tax treatment is deemed to be a recovery of fuel costs and must be incorporated through the Rate Stability Period in the base cost of fuel that is approved pursuant to clause 6(1)(a).
 - (2) For greater certainty, the tax difference deemed to be a fuel cost pursuant to subsection (1) must not be incorporated into annual adjustments under the Fuel Adjustment Mechanism but must be accounted for in the base cost of fuel during the Rate Stability Period required to be proposed by Nova Scotia Power pursuant to clause 4(1)(b) and approved by the Board pursuant to clause 6(1)(a) .
- 16** Notwithstanding subsection 14(2) and Section 15, for annual adjustments pursuant to the Fuel Adjustment Mechanism implemented on or about January 1, 2016, in respect of the 2015 calendar year, an amount excluded from an annual adjustment pursuant to the Fuel Adjustment Mechanism as a result of the application of subsection 14(2) and Section 15 may be included in the annual adjustment for any rate class whose total fuel rate in 2016 would otherwise be higher than it was in 2015, but only to the extent of reducing the 2016 total fuel rate to equal the 2015 total fuel rate.
- 17** Any amounts deemed to be a recovery of fuel costs pursuant to subsections 14(1) and 15(1) must be allocated to Nova Scotia Power's customers on the same basis that they would have been under Nova Scotia Power's approved cost of service methodologies if they had not been deemed to be fuel costs.
- 18**
- (1) Notwithstanding the Public Utilities Act but subject to subsection (3), the Board may not grant a change in Nova Scotia Power's general rates to take effect before January 1, 2020.
 - (2) Nova Scotia Power may, on or before April 30, 2016, file an application for a change in its general rates.
 - (3) On an application pursuant to subsection (2), the Board may grant a change in Nova Scotia Power's general rates to take effect during the Rate Stability Period.
 - (4) Where the Fuel Stability Plan is approved by the Board pursuant to Section 6, the base cost of fuel may not be reset on any application for a change in general rates pursuant to subsection (2).

- (5) Nothing in subsection (1) affects the authority of the Board to order staged or multi-year changes in Nova Scotia Power's general rates during the Rate Stability Period in respect of an application made by Nova Scotia Power pursuant to subsection (2).
 - (6) Notwithstanding subsection (1), Nova Scotia Power may be granted a change in general rates during the Rate Stability Period if exceptional circumstances exist that have caused or will cause substantial financial harm to the ratepayers of the utility or to the utility, and Section 64A of the Public Utilities Act applies mutatis mutandis.
- 19** Nothing in Sections 3 to 18 is intended to affect the manner in which the Board may deal with rates under the following Nova Scotia Power tariffs:
- (a) One Part Distribution Voltage Real Time Pricing Tariff;
 - (b) One Part High Voltage Real Time Pricing Tariff;
 - (c) One Part Extra High Voltage Real Time Pricing Tariff;
 - (d) Generation Replacement and Load Following Tariff;
 - (e) Shore Power Tariff;
 - (f) Wholesale Market Backup/Top-Up Service Tariff;
 - (g) Wholesale Market Non-Dispatchable Supplier Spill Tariff;
 - (h) Open Access Transmission Tariff;
 - (i) Load Retention Tariff; and
 - (j) any tariff established pursuant to Section 3G of the Electricity Act.

3.0 ISSUES

[19] The Board considers that the issues which must be addressed in this

Decision are as follows:

1. Is the anticipated assessment for the Maritime Link appropriately reflected in rates?
2. Should the Board approve the Consensus Agreement as it relates to the Base Cost of Fuel for each of 2017, 2018 and 2019?
3. Should the Board approve the interim changes to the Plan of Administration and the Accounting Policy?

4. What reporting and auditing requirements should apply during the Rate Stability Period?
5. Should the Board approve the proposed hedging strategies or mechanisms?
6. Do any other matters arise from the evidence?

4.0 ANALYSIS AND FINDINGS

1. Is the anticipated assessment for the Maritime Link appropriately reflected in rates?

[20] In the Consensus Agreement the parties agreed that the timing and quantum of NSPI's forecasts of the amounts to be recovered from customer rates in respect of the anticipated assessment for the Maritime Link, over the Rate Stability Period, will be as set out in the Company's Fuel Stability Plan. The Consensus Agreement goes on to state:

NS Power agrees to track the benefits realized for customers from the Maritime Link prior to the start of the NS Block and provide such information to customers on no less than a quarterly basis.

[Exhibit N-31, p. 4]

[21] The anticipated assessment, inclusive of depreciation as set out in the Company's Application, was \$162 million for 2018, and \$164 million for 2019. There was no change in these amounts in the BCF Refresh.

Findings

[22] The Board accepts these amounts as confirmed in the Consensus Agreement and finds that they are appropriately reflected in rates based on information known to date.

[23] There are several matters which are uncertain at the moment, not the least of which is the commencement date of the NS Block. When that is known for certain that may affect, for example, depreciation, if the contract is extended beyond its anticipated

termination date and may change other matters. The Board is satisfied those matters can be dealt with in future proceedings to ensure that ratepayers are fairly assessed.

[24] The purpose of this proceeding was to set the BCF for NSPI. Nothing in this finding confirms the amount or prudence of the Maritime Link costs or the commencement date for paying the assessment which will be the subject of a future proceeding to be brought by NSP Maritime Link Incorporated anticipated in 2017.

2. Should the Board approve the Consensus Agreement as it relates to the Base Cost of Fuel for each of 2017, 2018 and 2019?

[25] As noted earlier in this Decision, NSPI updated the BCF forecast contained in its original Application with pricing information as of March 31, 2016, as well as an updated load forecast. This 2017-2019 BCF Refresh was filed on May 27, 2016.

[26] The BCF Refresh adjusted the original Application as follows (in million dollars):

	2017	2018	2019
Application	\$527.5	\$672.1	\$681.6
Refresh	\$509.8	\$688.1	\$653.7

[27] In the Consensus Agreement, NSPI and its ratepayers agreed as follows with respect to the BCF during the Rate Stability Period:

2. BASE COST OF FUEL

The Parties agree to the Base Cost of Fuel amounts for each year of the Rate Stability Period as set out in the 2017-2019 BCF Refresh subject to any adjustment required as a result of the change in the assumption for delivery date of the NS Block to April 1, 2019 for the FAM Residential Classes as set out in Section 5 below. This agreement is without prejudice to and reserving the right of any Party to challenge the prudence of any fuel cost.

[Exhibit N-31, p. 3]

[28] In Article 5 of the Consensus Agreement, the parties agreed that the rates for the FAM Residential Classes over the Rate Stability Period will be based on an

assumed delivery date for the NS Block of April 1, 2019. January 1, 2019 will remain as the assumed delivery date of the NS Block for all other FAM Classes.

[29] In its pre-filed evidence (which was filed before the BCF Refresh), Liberty expressed general satisfaction with NSPI's forecasting and calculation of fuel costs:

In general, NS Power's application responds effectively to legislative requirements and to the needs of the Board in addressing the issues raised by forecasting fuel and energy costs for what is, in this business, a very long time.

[Exhibit N-15, p. 10]

[30] Any outstanding issues were later addressed by the parties in the Consensus Agreement or are canvassed elsewhere in this Decision.

Findings

[31] Taking all of the above into account, the Board is satisfied that NSPI has correctly calculated the total BCF amounts of \$509.8 million, \$688.1 million and \$653.7 million for the years 2017, 2018 and 2019, respectively.

[32] The Board observes that the Consensus Agreement represents a negotiated settlement by most of the customer classes. PHP did not execute the Agreement, but does not oppose it. The primary objective of the Agreement is to establish the BCF for each year during the Rate Stability Period. The Board is satisfied that the Consensus Agreement is in the public interest, that it satisfies the requirements of the *Electricity Plan Implementation (2015) Act*, and that it should be approved. In the Board's opinion, the Agreement provides for rates that are just and reasonable.

[33] Accordingly, the Board approves the Fuel Stability Plan applicable to the Rate Stability Period on the basis of the above BCF amounts. The Board directs NSPI to file a Compliance Filing to reflect the revised assumed delivery date of the NS Block to

the FAM Residential Classes (i.e., April 1, 2019), along with any other adjustments to reflect the findings elsewhere in this Decision.

3. Should the Board approve the interim changes to the Plan of Administration and the Accounting Policy?

[34] NSPI's Fuel Adjustment Mechanism is governed by the Plan of Administration, which includes the Fuel Forecasting Methodology. Liberty, in its evidence, recommended NSPI file a revised POA with NSPI's Refresh evidence to identify all revisions required as a result of the *EPIA*. Liberty also recommended the Company use this occasion to refile all parts of the POA, including Allowable Fuel Costs, which the Company intends to rely upon during the Fuel Stability Period.

[35] NSPI did not file the POA revisions within its Refresh evidence, explaining it felt more time would be needed for parties to comment and proposed to work with the FAM Small Working Group ("SWG") to draft and review an interim POA to be in place for January 1, 2017.

[36] NSPI also highlighted a requirement to include additional changes that have occurred since the POA and FAM Fuel Forecasting Methodology were last revised, such as inclusion of the load retention rate and cost of service updates.

[37] Liberty, in its evidence, recommended NSPI specifically identify which portions of Accounting Policy 5110 will not be applicable during the RSP and provide details of what will govern and guide accounting actions.

[38] NSPI, in its reply evidence, provided the anticipated changes, but submitted that approval of a revised accounting policy was not a requirement. Subsequently, NSPI adjusted its position and the terms of the Consensus Agreement provide that an updated

interim policy will be included in the Compliance Filing and request the Board provide parties an opportunity to comment prior to issuance of the Board Order.

Findings

[39] The Board notes the approach and timeline to complete interim revisions to the POA as well as the Accounting Policy were agreed to in the Consensus Agreement, and were revised in response to Board concerns in Undertaking U-2. The Board directs NSPI to file the revised POA and Fuel Forecasting Methodology no later than September 13, 2016. NSPI is also directed to file the updated Accounting Policy 5110 with its Compliance Filing and comments from participants will be invited with other comments on the Compliance Filing.

4. What reporting and auditing requirements should apply during the Rate Stability Period?

[40] In response to Liberty IR-42, NSPI stated it would continue its FAM reporting under the POA, “unless and until the Board orders otherwise”, and that it assumed the FAM audit process would continue, although without a hearing during the RSP. Both Mr. Wood and Mr. O’Connor testified this would be the case, and that no hearing would take place until after the RSP. Reporting would occur in the same way as it does at present. NSPI stated that the FAM audit would provide an opportunity to review its fuel procurement for prudence.

[41] The Company elaborated, in response to NSUARB IR-24, that any variance during the RSP will be addressed in the 2020 FAM AA/BA hearing. Mr. O’Connor confirmed this at the hearing. NSPI expects any imbalances prior to the beginning of the RSP period to be addressed in the 2016 AA/BA hearing and will be recovered “...in the

form of the AA/BA riders...calculated and applied in equal installments over the [RSP]". This separate proceeding is confirmed in Article 6 of the Consensus Agreement.

[42] The Company said, in response to NSUARB IR-25, that issues surrounding possible improvements to the AA/BA process would continue to be discussed during the RSP.

[43] In its evidence, Liberty emphasized the need for "...routine, timely NS Power reporting...to continue" in order to maintain transparency with respect to costs. It said that this would allow the Board to appropriately monitor fuel procurement costs during the RSP. Liberty understood that no hearing surrounding the FAM audit would occur during the RSP.

[44] Liberty further opined that "...the continuation of the reporting, monitoring, and audit requirements will provide a reasonable process..." for the determination of future adjustments after the RSP.

[45] In its response to IR-1 from the Industrial Group, Liberty confirmed its view that s. 13 of the *EPIA* left it to the Board to decide whether the current FAM audit process should continue.

[46] In response to questions from the Board, Mr. Antonuk testified that the continuance of the FAM reporting is, in his opinion, "...both correct and important". With respect to the FAM audit, while he agreed with the present two-year approach, he testified:

...we believe it should be left to the Board's judgment on whether the audit should occur at the two-year period, which it would absent anything else, or if it could possibly wait till the end of the period. There may or may not be circumstances that, at the time, suggest a delay, but all things equal we think sticking with the two-year approach at present as a plan makes sense.

[Transcript, pp. 108-109]

[47] Further, Mr. Antonuk said that he would prefer to see actual year-end numbers used for the AA/BA during the RSP; there would be no need for estimates to be applied, as currently.

Findings

[48] The Board finds that the filing of regular FAM reports should continue during the RSP as proposed by NSPI and endorsed by Liberty. Additionally, the Board finds that the FAM audit should occur on the current schedule of every two years, which means that there will be an audit during the RSP. The Board reserves the right, on notice to the parties, to modify the timing of the audit, should circumstances warrant.

[49] As set out in s. 13, the *EPIA* does not suspend the reporting or audit processes, but merely defers any hearing process on the FAM audit:

- 13 For greater certainty, nothing in Sections 3 to 12 restricts or suspends any reporting or auditing requirements of the Fuel Adjustment Mechanism, except that no hearing relating to an audit may occur during the Rate Stability Period other than for the purpose of setting the base cost of fuel for the calendar year 2020.

[50] The Board observes that there will be an AA/BA hearing in November 2016, before the RSP commences, to determine if there is an outstanding balance for 2016 and, if so, how to deal with the recovery or refund of that balance, as the case may be. It will also be necessary to hold an AA/BA hearing in 2019 to prepare for the end of the RSP, and any necessary adjustment for 2020 rates. At that time there will be a true-up.

[51] In the interim, for 2017 and 2018, there will be no AA/BA hearing. However, the Board directs NSPI to continue to report and track fuel spending as it does at present. The Board agrees with Liberty that this is important for reasons of transparency, as well as efficiency at the time of the 2019 hearing. The Board also agrees that during the RSP,

with the exception of 2019, when there will be an AA/BA hearing, actual figures should be used, rather than estimates for the last two months of every year.

5. Should the Board approve the proposed hedging strategies or mechanisms?

[52] For the first time, since the implementation of the FAM, the Board is required, pursuant to s. 6 of the *EPIA*, to approve the hedging strategies or mechanisms to be used by NSPI to manage fuel costs during the Rate Stability Period.

[53] Since inception of the FAM, NSPI has undertaken hedging activities and the prudence of those activities was then reviewed as part of the FAM audit process. That meant that shareholders were at risk in the event hedging was done imprudently. During the Rate Stability Period, the *EPIA* requires the Board to give advance approval of the hedging strategy, thus reducing any risk to NSPI shareholders that there may be a finding of imprudence.

[54] Parties were concerned that NSPI's Hedging Plan, as originally filed, did not contain sufficient information to enable the parties and the Board to judge its appropriateness. As a result of the IR process and the BCF Refresh, NSPI significantly expanded the information available to the Board, Liberty, and the parties. The Consensus Agreement provisions of the Hedging Plan are as follows:

1. NS POWER HEDGING PLAN

As part of its Compliance Filing, NS Power will update the Revised NS Power Hedging Plan (Version 1.1), attached as Exhibit E-2 to the 2017-2019 BCF Refresh, to reflect:

- (a) Information from following areas in the 2017-2019 BCF Refresh:
 - Section 3.2 - Unhedgeable Risks
 - Section 3.3 - Target Amount of Hedges
 - Section 3.4 - Rebalancing Activities (of Hedge Portfolio)
 - Section 3.6 - Value at Risk Metrics and Position Limits
- (b) The following information presented by NS Power at the Company's Technical Conference on June 3, 2016 (a copy of which is attached as Schedule 1):

- Hedging Process flow chart from the slides, page 19.
 - Risk Identification Processes, Technical Conference slides, page 21
- (c) A list of all Middle Office reports that will be used for risk Measurement, Evaluation, Mitigation and Monitoring. This list should be comprehensive and should include the source of report (including from Allegro and outside of Allegro), timing, frequency, audience, and any significant interdependency.

The updated NS Power Hedging Plan containing the preceding information will be circulated by NS Power to stakeholders and submitted to the Board as part of the Company's Compliance Filing with the request that the Board provide the Parties with an opportunity to provide comment prior to the issuance of the Board's final order. Any areas of disagreement will be resolved by the Board.

[Exhibit N-31, Appendix A]

[55] In the hearing John Antonuk, of Liberty, was asked to comment on the

Hedging Plan:

THE CHAIR: Mr. Antonuk, it's Peter Gurnham. I just have one area I wanted to question you on, and that was hedging.

And initially, following the initial evidence from Nova Scotia Power, Liberty had some concerns about the amount of disclosure that had taken place. And I guess my question to you is based on what you've now seen in the Refresh and in the answers to the IR requests, coupled with the information that's going to be filed before the compliance filing as part of the Consensus Agreement, are you now satisfied that we have sufficient information to ensure that there is an adequate hedging plan?

MR. ANTONUK: Yes, we are. I have not looked at the Consensus Agreement, but to the extent it says that the changes offered or explanations offered by Nova Scotia Power in its evidence will be incorporated into the plan, then we're certainly satisfied with that.

[Transcript, p. 110]

[56] As noted in the quotation above, the Consensus Agreement attached slides from a presentation to stakeholders at a technical conference at which the Board (appropriately) was not present. Mr. Curry, counsel for NSPI, confirmed that the Board was not being asked to approve the content of the slides; rather, the slides were included to provide clarity as to what NSPI will update as required by the Consensus Agreement.

Findings

[57] The Board approves the process in Article 1 of the Consensus Agreement, noting that final approval of NSPI's Hedging Plan will be part of the Company's

Compliance Filing following any further comment from interested parties with respect to the material required by Article 1 of Appendix A of the Consensus Agreement. NSPI will be obliged to prudently administer the approved plan.

6. Do any other matters arise from the evidence?

[58] In a letter of comment, Gary Schmeisser, Senior Director, Facilities Management at Saint Mary's University, asked the Board to consider reviewing the present method used to distribute fuel costs across rate classes in light of the changes over the past several years related to sources of electricity generation. He noted that fuel and generation costs have changed significantly over the past several years as a result of the Province's goal to meet green energy targets.

[59] There was no submission by Saint Mary's as to what those cost allocations should be or what change should be made. As part of the next general rate hearing the Board would be prepared to consider the point raised by Saint Mary's and directs that NSPI, as it reviews cost allocation during the preparation phase for the next general rate proceeding, consider these comments.

5.0 COMPLIANCE FILING

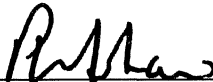
[60] The Board approves the Consensus Agreement and the Base Cost of Fuel for each of 2017, 2018 and 2019.

[61] NSPI is directed to file a Compliance Filing no later than August 15, 2016.


[62] The Formal Intervenors are to provide comments, if any, no later than two weeks later, with a rebuttal, if required, one week later.

[63] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 19th day of July, 2016.



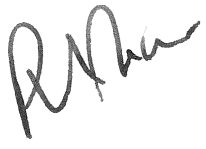
Peter W. Gurnham



Roland A. Deveau



Roberta J. Clarke



APPENDIX A

1. NS POWER HEDGING PLAN

As part of its Compliance Filing, NS Power will update the Revised NS Power Hedging Plan (Version 1.1), attached as Exhibit E-2 to the 2017-2019 BCF Refresh, to reflect:

- (a) Information from following areas in the 2017-2019 BCF Refresh:
 - Section 3.2 - Unhedgeable Risks
 - Section 3.3 - Target Amount of Hedges
 - Section 3.4 - Rebalancing Activities (of Hedge Portfolio)
 - Section 3.6 - Value at Risk Metrics and Position Limits

- (b) The following information presented by NS Power at the Company's Technical Conference on June 3, 2016 (a copy of which is attached as **Schedule 1**):
 - Hedging Process flow chart from the slides, page 19.
 - Risk Identification Processes, Technical Conference slides, page 21

- (c) A list of all Middle Office reports that will be used for risk Measurement, Evaluation, Mitigation and Monitoring. This list should be comprehensive and should include the source of report (including from Allegro and outside of Allegro), timing, frequency, audience, and any significant interdependency.

The updated NS Power Hedging Plan containing the preceding information will be circulated by NS Power to stakeholders and submitted to the Board as part of the Company's Compliance Filing with the request that the Board provide the Parties with an opportunity to provide comment prior to the issuance of the Board's final order. Any areas of disagreement will be resolved by the Board.

2. BASE COST OF FUEL

The Parties agree to the Base Cost of Fuel amounts for each year of the Rate Stability Period as set out in the 2017-2019 BCF Refresh subject to any adjustment required as a result of the change in the assumption for delivery date of the NS Block to April 1, 2019 for the FAM Residential Classes as set out in Section 5 below. This agreement is without prejudice to and reserving the right of any Party to challenge the prudence of any fuel cost.

3. ANTICIPATED ASSESSMENT FOR MARITIME LINK

The timing and quantum of NS Power's forecast of the amounts to be recovered through customer rates in respect of the anticipated assessment against the Company for the Maritime Link over the Rate Stability Period will be as set out in the Company's Fuel Stability Plan Application.

NS Power agrees to track the benefits realized for customers from the Maritime Link prior to the start of the NS Block and provide such information to customers on no less than a quarterly basis.

4. COST OF SERVICE CLASSIFICATION OF THE MARITIME LINK

The CA proposes, supported by MEUNSC, the following:

- (a) For the purposes of setting the Base Cost of Fuel for each year of the Rate Stability Period, the Maritime Link costs will be classified and allocated as NS Power-owned hydro generation as set out in the Company's Fuel Stability Plan Application.
- (b) The Parties and other interested stakeholders will engage in a consultative process to address the Maritime Link cost of service and how the Maritime Link costs will be allocated in 2020 and beyond and file a report with the Board on the outcome of such consultative process on or before March 31, 2017. Any areas of disagreement among the Parties will be resolved by the Board.
- (c) Any changes to classification and allocation of the Maritime Link costs from NS Power-owned hydro generation will not be made retroactive and will not be implemented prior to January 1, 2020.

The IG, SBA, NS Power do not object to the CA's proposal as stated above and all Parties agree to abide by the terms of that proposal.

5. ASSUMPTION ON TIMING OF ENERGY FROM MUSKRAT FALLS

The Parties agree as follows that in terms of the Base Cost of Fuel forecasts:

- (a) The rates for the FAM Residential Classes over the Rate Stability Period will be based on an assumed delivery date for the NS Block of April 1, 2019; and

- (b) The rates for all remaining FAM Classes over the Rate Stability Period will be based on an assumed delivery date for the NS Block of January 1, 2019.

6. 2016 FAM AA/BA BALANCES

The 2016 FAM AA/BA Balances will be addressed through a separate proceeding.

7. PLAN OF ADMINISTRATION

NS Power will work with the FAM Small Working Group (SWG) to develop an interim FAM Plan of Administration (POA) to apply during the Rate Stability Period and submit it to the Board for approval in accordance with the following timeline:

- (a) NS Power will submit completed revisions to all parts of the POA at the next meeting of the FAM SWG, currently scheduled for June 28, 2016.
- (b) FAM SWG members will respond with any comments by July 28, 2016.
- (c) NS Power will submit a revised POA (all parts) to FAM SWG members by August 28, 2016.
- (d) Final revisions discussed, with search for consensus, at FAM SWG meeting on September 27, 2016.
- (e) NS Power files final POA (all parts) with AA/BA filing in early November 2016.
- (f) Comments by parties, and disposition by the NSUARB, contemporaneously with those for the AA/BA filing.

8. FAM ACCOUNTING POLICY 5110

NS Power identified on pages 76-78 of the 2017-2019 BCF Refresh the sections of NS Power Accounting Policy 5110 – FAM (FAM Accounting Policy) that will not be applicable during the Rate Stability Period. As part of its Compliance Filing, NS Power will submit an updated version of the FAM Accounting Policy reflecting these changes to the Board for approval with the request that the Board provide the Parties an opportunity to provide comment on the updated FAM Accounting Policy prior to the issuance of the Board's final order.

9. **TARIFFS**

Upon approval of the Fuel Stability Plan, the changes to the rates and tariffs will be included in NS Power's Compliance Filing and submitted to the Board for approval. Prior to the commencement of the hearing, the Company will file with the Board the following tables:

- (a) An updated table(s) (based on Figure 9 in the 2017-2019 BCF Refresh) showing the estimated revised percentage changes in revenue based on the assumed delivery date for the NS Block of April 1, 2019 for the FAM Residential Classes (as set out in Section 5(a) above), which percentage changes will be updated in the Compliance Filing.
- (b) An updated table(s) (based on Figure 9 in the 2017-2019 BCF Refresh) showing the percentage changes in revenue rates for all remaining FAM classes (as set out in Section 5(b) above) based on an assumed delivery date for the NS Block of January 1, 2019.