

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE PETROLEUM PRODUCTS PRICING REGULATIONS

- and -

IN THE MATTER OF AN INVESTIGATION by the Board under s. 24(1) of the *Petroleum Products Pricing Regulations* about whether the current wholesale margin for gasoline and diesel is just and reasonable

BEFORE:



Stephen T. McGrath, K.C., Chair
Roland A. Deveau, K.C., Vice Chair
Richard J. Melanson, LL.B., Member

ORDER

By Order dated June 28, 2023, following a public hearing and decision in this matter (2023 NSUARB 154), the Board approved the incorporation of clean fuel adjustor amounts in its weekly setting of regulated petroleum product prices, based on the maximum credit price of \$300 for transfers through the compliance-credit clearing mechanism, under the *Clean Fuel Regulations (Canada)*, SOR/2022-140, adjusted for inflation.

By Order dated December 20, 2023, the Board amended the clean fuel adjustor to account for changes to the *Clean Fuel Regulations (Canada)* requiring a further carbon-intensity limit reduction of 1.5 CO₂e per megajoule of energy and inflation.

In January 2024, the Board engaged consultant R Cube Economic Consulting Inc. to review the clean fuel landscape and recommend if a full review should be conducted or if changes to the interim CFR Adjustor should be made.

Shortly after R Cube submitted its report to the Board, which recommended that the interim adjustor be updated to use Argus Media Inc. data for the Canadian cost of compliance with the regulations, Argus changed its CFR Compliance Cost methodology. Argus' reported cost now uses a traditional survey assessment methodology. After this methodological change, R Cube submitted an addendum to its report on March 8, 2024. The change in Argus' methodology did not change R Cube's recommendation.

On April 12, 2024, the Board requested comments on its intent to change the interim CFR adjustor to be based on Argus' Canada CFR Compliance Cost and to set a maximum

cost of compliance (effectively a cap on the clean fuel adjustor amount). The Board proposed that the maximum cost be based on the Board's current method for setting a clean fuel adjustor (maximum credit price of \$300 adjusted for inflation, for transfer through the compliance-credit clearing mechanism under the CFR).

The Board received comments from three parties, the Consumer Advocate, Canadian Fuels Association and Imperial Oil. All three parties were in favour of using the Argus' Canada CFR Compliance Cost. The Consumer Advocate was in favour of the cap, but the other two parties opposed setting a maximum cost of compliance.

The Board issued its decision in a letter dated June 25, 2024.

The Board orders the following, effective 12:01 a.m. on Friday, June 28, 2024, until further order of the Board:

1. The clean fuel adjustor amount applied to gasoline will be based on the average of the daily Canada CFR compliance cost – gasoline, since its previous price setting, and the adjustor applied to diesel will be based on the average of the daily Canada CFR compliance cost – diesel, since its previous price setting.
2. The maximum amount of the adjustor for both gasoline and diesel will be capped based on the Board's current methodology for the adjustor (\$300/tonne credit price, adjusted for inflation). Adjusting these amounts for the most up-to-date inflation data to May 31, 2024, the maximum amounts will be 5.46 cents per litre for gasoline and 6.09 cents per litre for diesel.

DATED at Halifax, Nova Scotia, this 26th day of June, 2024.



Chief Clerk of the Board



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June 26, 2024

Dear Parties:

M10853 - Petroleum Products Wholesale Margin Review - Update to the Interim Clean Fuel Adjustor for 2024

This follows the Board's letter dated April 12, 2024, on its proposed update to the interim Clean Fuel Adjustor, based primarily on a report from R Cube Economic Consulting Inc. The panel considering this matter is Stephen T. McGrath, K.C., Chair; Roland A. Deveau, K.C., Vice Chair; and Richard J. Melanson, LL.B., Member.

The current adjustor is based on the maximum credit price of \$300 for transfers through the compliance-credit clearing mechanism under the federal *Clean Fuel Regulations* (CFR), adjusted for inflation. In its April 12, 2024, letter, the Board asked for participants' comments on its proposed amendments to the adjustor. The Board proposed that the updated adjustor be based on Argus' Canada CFR Compliance cost for diesel and gas, with a maximum cost based on the current methodology used to calculate the adjustor amount.

Submissions

The Board received comments from three parties, the Consumer Advocate (CA), Canadian Fuels Association (CFA), and Imperial Oil.

The CA was in favour of the Board's proposal to use the Argus Canada information and set a maximum cost based on the current methodology. In its April 29, 2024, letter, the CA stated:

In light of the circumstances described in your letter, it would seem to be reasonable for the Board to use Argus' Canada CFR Compliance Cost - diesel and Canada CFR Compliance Cost – gas in its weekly setting of regulated petroleum prices. It also appears to be appropriate for the Board to set a maximum cost of compliance based on the current methodology used to set the Clean Fuel Adjustor amount.

Although the CFA and Imperial Oil submitted that the use of the Argus assessments be adopted, both did not agree with setting a maximum cost. In its May 3, 2024, letter, Imperial Oil stated:

Consistent with other market driven components of the regulated prices in Nova Scotia, the clean fuel adjustor mechanism should reflect the market value of the cost of compliance.

Therefore, Imperial submits that having a boundary such as a maximum credit price is inconsistent with the approach used for other market-based components of the regulated price. Moreover, ... there is some doubt that the credit clearing mechanism process under the CFR (and its maximum credit price of \$300 plus inflation) will necessarily reflect market credit prices...

Findings

The Board finds it appropriate to set the interim adjustor based on the Argus Canada number for diesel and gasoline and that it be updated as part of its regular price-setting process using the same date ranges the benchmarks are based on.

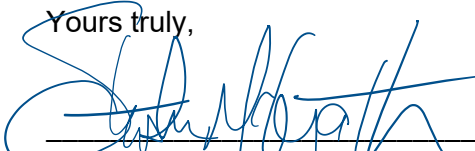
Although the Board understands the concerns about setting a maximum cost of compliance, as noted by the CFA and Imperial Oil, the Board's concerns about the liquidity of the credit market, and possible underlying market failures, take precedence. As such, given that this market is still developing, the Board finds it appropriate to set a maximum cost, for the time being, using the methodology that is currently used to set the price of the adjustor.

Effective June 28, 2024, the Board will base the CFR adjustor on the Argus Media Canada CFR Compliance cost. The adjustor applied to gasoline will be the average of the daily Canada CFR compliance cost - gasoline since its previous price setting. The adjustor applied to diesel will be the average of the daily Canada CFR compliance cost - diesel since its previous price setting.

For both gasoline and diesel, the maximum amount of the adjustor will be capped, based on the Board's current methodology for the adjustor. Adjusting that amount for the most up-to-date inflation data to May 31, 2024, the maximum amounts will be as follows: 5.46 cents per litre for gasoline (up from 5.40) and 6.09 for diesel (up from 6.02). An Order will follow.

The Board will continue to monitor the market and will review the mechanism as more information becomes available. The Board anticipates that the next review will take place in January 2025, unless otherwise determined by the Board.

Yours truly,



Stephen T. McGrath, K.C.
Chair



Roland A. Deveau, K.C.
Vice Chair



Richard J. Melanson, LL.B.
Member