



**Nova Scotia Utility and Review Board
Business Plan
Fiscal Year Ending March 31, 2010**

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A. MESSAGE FROM THE CHAIR

On behalf of the Board I am pleased to present the Nova Scotia Utility and Review Board's Business Plan for the fiscal year ending March 31, 2010. The direction set out in the Strategic Plan completed in 2008 continues to be relevant and the basis for this Business Plan. While a number of detailed objectives and initiatives have been developed in the Strategic Plan, this Business Plan document is intended to show the few critical priorities or activities we will focus on in the coming fiscal year.

As always, the Board is mindful of the responsibilities assigned to it by the various statutes and regulations. It takes those responsibilities very seriously recognizing that its decisions can have a significant impact on the lives of Nova Scotians – both broadly on matters such as utility rates, and individually on matters such as property assessment appeals. I believe the activities described in this plan permit the Board to adequately discharge its duties.

I would like to thank government and the citizens of Nova Scotia for placing their trust in this Board. We will do our very best to ensure that trust is earned.

Peter W. Gurnham, QC
Chair
Nova Scotia Utility and Review Board

B. MISSION & VISION STATEMENTS

Our mission is to fairly and independently resolve matters.

Resolving matters includes:

- a. Providing efficient, cost effective and fair processes (i.e., hearings, appeals, licensing, and compliance);
- b. Developing a collective body of knowledge and expertise;
- c. Producing consistent and well reasoned decisions; and
- d. Appropriately informing public policy.

Our vision is to be a leading administrative and regulatory tribunal.

We will be widely recognized as a fair, independent and accessible board, making insightful, consistent and well explained decisions, which are provided in a respectful, courteous and timely manner.

C. PLANNING CONTEXT

Mandate

The Board arguably has the greatest affect on the lives of ordinary Nova Scotians of any quasi-judicial tribunal in the Province. The most visible decisions relate to matters involving hundreds of millions of dollars or affecting thousands of ratepayers. However, the larger volume of files relate to less public matters affecting individuals.

The Board's quasi-judicial mandate is set by legislation, and includes the following major functions:

- ▶ General supervision of all public utilities. That includes approving things such as:
 - ▶ initial establishment of utilities;
 - ▶ rates and terms of service;
 - ▶ capital expenditures in excess of \$25,000;
 - ▶ resolution of certain types of complaints; and

- ▶ abandonment of service.

Traditionally public utilities are thought of as water and electric utilities. That role was expanded in calendar 2007 to include sewer and wastewater systems transferred by Halifax Regional Municipality to the Halifax Regional Water Commission.

- ▶ Approval of franchises for distribution of natural gas, regulation of construction and operation of pipelines and associated facilities, and construction and operation of underground hydrocarbon storage facilities. This may include such things as: establishment of franchises; issuance of permits to construct and licenses to operate; setting of rates; approving terms of supply; and permitting abandonment of service. The Board also approves licenses for natural gas marketers.
- ▶ Safety inspection of all regulated and certain unregulated buses, commercial vans and other vehicles used in public transportation.
- ▶ Economic regulation of public passenger bus operations.
- ▶ Hearing appeals from the Regional Assessment Appeal Court concerning assessed values of property for municipal taxation purposes.
- ▶ Hearing appeals from decisions of municipal councils and development officers relating to planning matters.
- ▶ Establishing the value of expropriated land where in dispute.
- ▶ Hearing appeals from decisions of the Director of Victim's Rights and Services relating to compensation for victims of crime.
- ▶ Setting the number of representatives and electoral boundaries for municipalities and school boards.
- ▶ Approving tolls for the Halifax-Dartmouth bridges.
- ▶ Granting of permanent liquor licenses, approving transfers, approving alterations in Board imposed licensing conditions, and disciplinary hearings concerning licensees. During fiscal 2007-2008 the regulations made under the *Liquor Control Act* were amended resulting in an expansion of Board duties to include approval of changes in managers, changes in principal persons for club licensees, temporary extensions of premises, temporary suspensions of licenses, premises renovations and entertainment privileges.
- ▶ Hearing appeals from decisions of the Alcohol and Gaming Authority, disciplining of gaming licencees, and hearing applications for

reinstatement of access to casinos for those who voluntarily exclude themselves.

- ▶ Hearing appeals from decisions of the film classifiers of the Alcohol and Gaming Authority relating to film classifications.
- ▶ Regulation of short line railways.
- ▶ Hearing appeals from orders made by the Fire Marshall and others as the Fire Safety Appeal Board.
- ▶ Determining the maximum amounts of interest and service charges that lenders may charge for payday loans pursuant to the *Consumer Protection Act*.
- ▶ Effective October 1, 2008 the duties and responsibilities of the Nova Scotia Insurance Review Board (IRB) were transferred to this Board. In addition, effective in January 2009, the regulations under the *Insurance Act* were amended to require insurance companies to file rates for approval at least every two years. A schedule setting out mandatory filing dates was published by the Board in October, 2008.
- ▶ Effective October 1, 2009 duties and responsibilities relating to setting of prices for gasoline and diesel oil pursuant to the *Petroleum Products Pricing Act* will be transferred to this Board.
- ▶ The *Technical Safety Act*, passed in May 2008 but not yet fully proclaimed, may transfer responsibility for certain other appeals during the fiscal year.

Policy

The Board is not aware of any major shifts in public policy that would significantly affect the planning period. Continuing adjustments in energy policy are expected as emphasis on environmental issues grows and costs for fuel fluctuate.

Industry Direction

International focus in the energy sector has moved towards greener sources of generation, more efficient use of energy, management of demand, and integrated resource planning. These themes are expected to be significant in upcoming regulatory proceedings. Growth in natural gas facilities is expected to continue in the near term.

Uptake of office and commercial space in urban areas has created new opportunities for large scale developments. This has resulted in some additional planning appeal hearings which are larger and more complex in scope. This trend is expected to continue. However, during 2008 the Halifax Regional Municipality Charter and HRM by Design statutes were passed into law. These changes could reduce the number and nature of appeals to the Board in future relating to the downtown of Halifax.

The passenger transportation sector continues to experience financial pressures, particularly in relation to fuel and vehicle acquisition costs. This, in turn, puts pressure on fares and threatens the viability of some rural routes experiencing low passenger counts. It also puts pressure on vehicle maintenance programs which can, in some cases, require more attention from inspection and enforcement personnel. In recent years a number of smaller transportation companies have been purchased by larger ones or consolidated into common operating groups. While this promotes efficiency in areas such as administration and dispatch it also has the effect of reducing the total number of carriers servicing the public.

Public Expectations

The public continues to expect government and its agencies to be more efficient in their use of public resources, more responsive to public need, more proficient in delivery of services, and able to adapt to societal change. In short, less “red tape”, more results.

There is a growing expectation that technology will be used to the greatest extent possible when delivering services. This includes electronic filing of information, making filed material available through the Internet, and using technology to search and display information during hearings.

Human Resources

In October 2009 staff of the former IRB were transferred to the Board. During November 2009 the Legislature approved an amendment to the *Utility and Review Board Act* to permit up to 10 full-time members to be engaged. The Board expects to increase its full-time compliment by one member in 2009-2010 to a total of nine. To assist with the transition of insurance duties two former members of the IRB were appointed as part-time members of the Board. Those appointments expire in October 2009 as does that of the existing part-time member. It is expected that renewal of these part-time appointments will not be required.

There are a number of senior staff in the Motor Carrier Division who have recently retired or may be retiring in the next few years. Human Resources staff

will continue to carefully manage the replacement of these personnel to ensure impact on service delivery is minimized.

Stakeholders

There are a number of key stakeholders serviced by the Board. They are:

- ▶ utility ratepayers (e.g., residential, commercial, institutional, industrial and government users) and the utilities themselves (e.g., electric, water, wastewater and natural gas);
- ▶ members of the public, commercial enterprises and governments participating in alcohol and gaming proceedings;
- ▶ members of the public seeking redress through the various appeal processes (e.g., assessment, planning, victims of crime);
- ▶ members of the public, commercial enterprises, and governments seeking to resolve disputes relating to the value of expropriated land;
- ▶ users of public passenger vehicles (including public transit; commuter vans; school, not-for-profit and charter busses) and the licenced carriers;
- ▶ municipalities and school boards;
- ▶ the Halifax-Dartmouth Bridge Commission and those using the bridges;
- ▶ the citizens and governments of Nova Scotia who are generally affected by widespread economic changes resulting from Board decisions;
- ▶ borrowers using payday loans services and the lenders making the loans; and
- ▶ insurance companies offering automobile insurance in the Province and the customers they serve.
- ▶ the travelling public who purchase gasoline and diesel oil products.

Challenges

The most significant challenges facing the UARB in the planning year are:

- ▶ Continued implementation of priorities established during the strategic planning initiative carried out in fiscal 2007-2008. Details of priorities for this fiscal year are included elsewhere in this document;

- ▶ Continuing to manage a busy case load. The Board strives to be as efficient as possible in its operations, keeping its costs to a minimum and rendering decisions within a reasonable time period. As any court-like entity, the UARB is primarily demand driven. That is, most activities are reactions to applications or appeals filed by others. Matters vary in both complexity and volume of evidence submitted. Some matters require public hearings, some *in camera*¹ hearings, while others can be decided without a formal proceeding. The total number of matters by type varies from year to year making longer term planning difficult. During fiscal 2007-2008 a total of 791 matters (fiscal 2006-2007: 732) of all types were decided by the Board;
- ▶ Assessing the impact on workload of changes made to regulations made under the *Liquor Control Act* in fiscal 2007-2008. Workloads have been higher than expected. The Board will be reviewing its business processes and addressing any needed changes;
- ▶ The continuing development of the natural gas industry and its growing impact on regulatory activities. This includes activities under the *Pipeline Act* for approving and monitoring pipeline construction and related facilities within the province. It is also expected to include considering applications to construct a Liquefied Natural Gas (LNG) plant and an underground hydrocarbon storage facility;
- ▶ Addressing the recommendations concerning the Motor Carrier Safety Programs as set out in the Auditor General's report of November 2008;
- ▶ Continued integration of automobile insurance matters into the Board's workload including introduction of mandatory rate filings;
- ▶ Integration of the new petroleum products pricing workload into Board operations.

Opportunities

During 2008 - 2009 installation of a number of new electronic support systems were completed. These systems are designed to improve case handling, introduce display of information during hearings, introduce of new ways to present information electronically, and expand secure and non-secure systems for transferring information to and from the Board. In the first few larger hearings where these systems were used it was generally agreed that the proceedings

¹ The proceeding is not open to the public due to the confidential or personal nature of the information or the administrative nature of the matter does not require the expense of a public proceeding.

were completed faster and with less administrative effort by the parties. In 2009 - 2010 there may be opportunities to expand use of the systems to smaller matters and to use these revolutionary tools to provide better, faster and more convenient service to stakeholders.

The Board's new case management database system is nearly complete and will provide better and more detailed information to staff and parties, permit better research and analysis of evidence and filings, and allow better work planning.

D. STRATEGIC GOALS

During fiscal 2007-2008 the strategic goals of the Board were completely reviewed and revised as part of an overall strategic planning initiative. The goals established in that initiative – with underlying long term objectives – are:

1. Heighten the efficiency and effectiveness of the Board:
 - a. Shorten the timeline of the decision making process from filing to decision;
 - b. Continue to improve access to Board services;
 - c. Establish regular consultation and feedback processes;
 - d. Expand non-hearing resolution processes.
2. Increase understanding of the Board:
 - a. Increase public understanding of decisions;
 - b. Improve parties understanding of Board processes;
 - c. Be seen by government as a resource to inform public policy².
3. Strengthen the Board's capacity to adapt to the future:
 - a. Be prepared to adapt to future trends;
 - b. Staff and members have required core competencies;
 - c. Continuously create and adopt regulatory and adjudicative best practices.

These are all multi-year goals the Board expected to work towards during a three to five year period. Specific activities supporting each goal are reviewed annually.

² As a quasi-judicial body the Board does not presume to set public policy. That is the role of government. Nevertheless, it does feel it appropriate to ensure government has relevant information when making policy decisions relating to its areas of responsibility. This can include alerting government when the Board feels the policy objectives contained in law are no longer being met, or circumstances have materially changed which could warrant a policy review.

E. CORE BUSINESS AREAS

1. Quasi-judicial Function. This is the Board's primary function – to independently and fairly resolve matters. Operations are conducted by Board Members and supported by advisory and administrative staff.
2. Motor Carrier (Public Passenger) Administration. This involves the safety inspection, licensing, administration and enforcement functions relating to the public passenger industry and some not-for-profit organizations. Operations are undertaken by the staff of the Motor Carrier Division.

F. PRIORITIES

Core Area 1 - Quasi-judicial Function

The Board intends to continue to aggressively pursue all of its strategic goals over time. The following initiatives, organized by strategic goal, have been selected as priority objectives for fiscal 2009-2010.

1. Heighten the efficiency and effectiveness of the Board:
 - a. Complete the process of establishing targets for the phases and steps of each mandate;
 - b. Develop policy and rules to achieve the new targets;
 - c. Complete development of user guides (for website).
2. Increase understanding of the Board:
 - a. Complete establishment of a process facilitator / navigator function;
 - b. Complete development of user guides for each mandate.
3. Strengthen the Board's capacity to adapt to the future:
 - a. As an outcome of the core competency review, establish detailed position requirements and a comprehensive training plan;
 - b. Proactively coordinate training undertaken by staff and members.

Outcome measures in a quasi-judicial environment are somewhat difficult to develop as the primary emphasis must always be to independently and fairly resolve matters based on the specific facts of each case. The following table details measures for the 2009 - 2010 planning period:

Core Business Area: Quasi-judicial Function				
Outcome	Measure	Data with Comparative 2006-2007	Target 2009-2010	Strategies to Achieve Target
Independently and fairly resolve matters	Percentage of hearing decisions issued within 90 days of receipt of final submissions.	2006-2007 - 96.3% 2007-2008 - 97.6%	95% or more of decisions released within 90 days of receipt of final submission.	- Introduction of electronic filing, information repository and case management programs - Develop user guides by mandate - Continue monitoring each member's performance
	Percentage of decisions relating to interlocutory matters released within 10 business days of final submission.	2006-2007 - 83.7% 2007-2008 - 85.4%	95% or more of interlocutory decisions within 10 business days.	
	Average total time for processing case files.	No overall comparatives available yet.	No targets yet established as it was not possible to develop good information on processing lag times. With the introduction of the new case management system in 2008 it will now be possible to collect reasonable baseline data.	- Establish targets for the phases and steps of each mandate. ³ - Develop user guides by mandate - analyse information captured in new case management system. - Introduction of facilitator / navigator function

Core Area 2 - Motor Carrier (Public Passenger) Administration.

This is a well developed program which has been operating successfully for a number of years. The strategic goal is to maintain the division's effectiveness in future. The following priorities have been identified for the coming year:

1. *Maintain an effective safety inspection and enforcement program.*

The Division is responsible for inspecting public passenger vehicles subject to the *Motor Carrier Act*, and others voluntarily participating in the

³ Data collected to date on average processing times by jurisdiction are included in the Board's annual Accountability Report.

program. It is also responsible for enforcing the *Motor Carrier Act*, *Motor Vehicle Act*, *Motor Vehicle Transport Act Canada*, and license conditions imposed by Board Order. For fiscal 2009-2010 the Division will continue to safety inspect all vehicles under Board jurisdiction at least twice annually. In 2007 - 2008 a total of 4,822 first inspections (2006 - 2007: 5,008) caused vehicles to be removed from service for repair or correction of defects in 2,993 instances (2006 - 2007: 3,044). Further, 2,792 rechecks (2006 - 2007: 2,746) were performed. Most vehicles were successfully returned to service after rechecks were completed. In addition, 261 road checks (2006 - 2007: 138) and 483 minor investigations (2006 - 2007: 400) were conducted.

2. *Continue to support the Atlantic Provinces School Bus Purchase Program.*

The Division supports the purchase program by assisting with specification of the types of vehicles to purchase, auditing delivered vehicles to ensure design and product supplied are consistent with the purchase agreement, and safety inspecting the vehicles on arrival.

3. *Address the recommendations of the Auditor General as set out in his report of November 6, 2008.*

Specific recommendations for improvement were made by the Auditor General to address questions relating to the overall effectiveness of the safety inspection program. Those recommendations will be addressed by implementation of the intended improvements in the information system, review of alternatives for delivery of inspection programs, and a review of policies and procedures relating to enforcement and inspections.

The following table details the performance measures relating to Motor Carrier activities for the 2009 - 2010 planning period:

Core Business Area: Motor Carrier Administration				
Outcome	Measure	Data with Comparative 2006-2007	Target 2008-2009	Strategies to Achieve Target
Safe public passenger vehicles.	Number of preventable accidents caused by detectable mechanical failure.	Number of accidents caused by detectable mechanical failure: 2006-2007: 0 2007-2008: 0	No accidents due to detectable mechanical failure.	<ul style="list-style-type: none"> - Continue existing inspection program. - Analyze all reported and significant public passenger accidents to determine cause. Improve accident reporting and investigation processes. - 100% of licensed vehicle fleet in service inspected. Continue with uniformed inspectors conducting all physical inspections to verify that vehicles are fit for use. As identified, inspectors confirm that vehicles overdue for inspection have been removed from service. - Continue highway spot checks to ensure compliance.

G. HUMAN RESOURCE STRATEGY

Staff of the Board are included in the broader public service by virtue of being employed under the authority of the *Utility and Review Board Act*. However, with the exception of the Motor Carrier Division staff, they are not Civil Servants and are therefore excluded from the Corporate Human Resources Strategy. The Board has developed and implemented its own human resources policy and succession planning process which it will continue to maintain during the 2009-2010 fiscal year. The Board has its own employee recognition program in place. It also supports the principles of the Province's fair hiring, and diversity programs.

During fiscal 2008-2009 a study was undertaken to identify core competencies in order to identify needed development and proactively coordinate training. This

was intended to further develop Board staff thus strengthening the Board's capacity to adapt to the future. The results of the study will be used as the basis for development of a comprehensive training plan.

The Motor Carrier Division is made up of Civil Servants appointed under the *Civil Service Act*. As such, they are included in the broader Provincial government human resources strategy through the Department of Finance. A number of senior staff have retired or signaled their intent to retire in the next few years. A succession plan has been developed to accommodate these changes without significantly impairing service delivery.

H. BUDGET CONTEXT

Tangible Capital Asset (TCA) Funding

No TCA funding is required for fiscal 2009-2010.

Operating Budget

Nova Scotia Utility & Review Board - Budget Context Chart			
Core Business (all)	2008 - 2009 Budget	2008 - 2009 Actual	2009- 2010 Budget
	(\$thousands)	(\$thousands)	(\$thousands)
Gross expenses:			
Quasi-judicial - budgeted operations	4,648	4,551	5,872
Quasi-judicial - un-budgeted operations ⁴	-	2,061	-
Motor carrier administration and enforcement	1,313	1,242	1,401
Total expenses	5,961	7,854	7,273
Revenues:			
Grant from Province of Nova Scotia	3,843	3,566	3,852
Recoveries from utilities and others	2,118	2,172	3,421
Recoveries - un-budgeted operations ⁵	-	2,201	-
Total revenues	5,961	7,939	7,273
Net income (loss)	-	85	-
Restricted and unrestricted surplus ⁶ - beginning of year	435	435	473
Restricted and unrestricted surplus - end of year	435	520	473
Board funded staff (FTE's)	51	55	56

⁴ Un-budgeted 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. Actual figures for 2008-2009 also include unforecasted amounts relating to transfer of the duties of the Insurance Review Board.

⁵ Ditto

⁶ Surpluses may be restricted for things such as capital assets in use, working capital requirements, and incomplete projects for which revenues have been received.

Appendix A: List of Statutes Containing Board Mandate

1. Assessment Act, RSNS 1989, c.23 as amended
2. Consumer Protection Act, RSNS 1989, c.92 as amended
3. Education Act, SNS 1995-96, c.1 as amended
4. Electrical Installation & Inspection Act, RSNS.1989, c. 141 as amended
5. Energy and Mineral Resources Conservation Act, RSNS 1989, c.147 as amended
6. Expropriation Act, RSNS 1989, c.156 (prior to Feb. 1996)
7. Expropriation Act, SNS 1995, c. 19 (post Feb. 1996)
8. Fire Safety Act, SNS 2002, c. 6
9. Gaming Control Act, SNS 1994-95, c.4
10. Gas Distribution Act, RSNS, 1997, c. 4 as amended
11. Halifax-Dartmouth Bridge Commission Act, RSNS 1989, c.192 as amended
12. Halifax Regional Municipality Charter, SNS 2008, c.39
13. Halifax Regional Water Commission Act, Acts of 1963, c. 55 as amended
14. Heritage Property Act, RSNS 1989, c.199
15. Insurance Act, RSNS, 1989, c. 231
16. Liquor Control Act, RSNS 1989, c. 260 as amended
17. Motor Carrier Act, RSNS 1989, c.292 as amended
18. Motor Vehicle Transport Act of Canada, 1987 (Federal)
19. Municipal Government Act, SNS 1998, c.18 as amended
20. Nova Scotia Power Finance Corporation Act, RSNS 1989, c.351 as amended
21. Nova Scotia Power Privatization Act, SNS 1992, c.8
22. Petroleum Products Pricing Act, SNS 2005, c. 11
23. Petroleum Resources Removal Permit Act, SNS 1999, c.7 as amended
24. Pipeline Act, SNS 1980, c. 13 as amended
25. Public Utilities Act, RSNS 1989, c.380 as amended
26. Railways Act, SNS 1993, c.11 as amended
27. Revenue Act, SNS 1995-96, c.17 as amended
28. Technical Safety Act, SNS 2008, c.10⁷
29. Theatres and Amusements Act, RSNS 1989, c. 466 as amended
30. Underground Hydrocarbons Storage Act, SNS 2001, c.37
31. Utility and Review Board Act, SNS 1992 as amended
32. Victims' Rights and Services Act, RSNS 1989, c.14 as amended

⁷ Not proclaimed in force as of the date of writing of this plan.
Document: 156310.1