



Nova Scotia Utility and Review Board
Business Plan
Fiscal Year Ending March 31, 2008

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A. MISSION STATEMENT

The Nova Scotia Utility and Review Board is an independent, quasi-judicial tribunal tasked by Government with the legal responsibility to carry out the mandate assigned through statute and regulation.

B. LINKS TO THE CORPORATE PATH

The Government has set out broad direction and priorities for all departments, agencies, Boards, Commissions and other Crown entities in its Corporate Path document. Entities, such as this Board are to set out their goals and priorities within the context of that direction, fiscal sustainability, and a balanced budget. Considering the Corporate Path direction, the Board's activities fall broadly into the following priorities:

<u>Board Priorities</u>	<u>Corporate Path Links</u>
Quasi-judicial function	1.1 Globally competitive business elements 2.2 Leader in Information Technology 2.3 Leader in Clean & Green Economy 3.2 Accessible Services 3.3 Safe Communities 3.4 Vibrant Communities
Motor Carrier Administration	3.2 Accessible Services 3.3 Safe Communities 3.4 Vibrant Communities

C. PLANNING CONTEXT

General

The Board arguably has the greatest impact on the lives of ordinary Nova Scotians of any administrative tribunal in the Province. Its quasi-judicial mandate is set by legislation and associated regulations, and includes the following major functions:

- ▶ General supervision of all public utilities including approving: 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.
- ▶ 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.

- ▶ 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.
- ▶ 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.

In addition to the above, the following functions are expected or may be added to the Board's mandate during the planning year:

- ▶ Setting of retail and wholesale prices for certain motive fuel products pursuant to the *Petroleum Products Pricing Act*. Transfer of this mandate from Service Nova Scotia and Municipal Relations has been deferred until completion of a review of the effectiveness of regulation so far in meeting its stated goals.

- ▶ Determining the maximum amounts of interest and service charges that lenders may charge for payday loans pursuant to the *Consumer Protection Act*. This mandate will likely be added late in the spring of 2007 upon enactment of certain amendments to the *Criminal Code of Canada*.
- ▶ Regulation of sewer systems transferred from the Halifax Regional Municipality to the Halifax Regional Water Commission pursuant to an amendment of the *Halifax Regional Water Commission Act*. The Board will begin regulation on the date the assets are transferred from the Municipality to the Commission which is expected during calendar 2007.

The Board has, or will have during the year, a total of 50 members and staff divided into the following major categories:

<u>Quasi-judicial function:</u>	
Full-time Board Members	8
Part-time Board Members ¹	1
Advisory staff	5
Board Clerks	3
Secretarial and hearing support staff	12
Finance, general and logistical support	4
Information systems staff	1
	34
 <u>Motor Carrier Administration</u>	
Director	1
Secretarial and licensing staff	3
Motor Carrier inspection and enforcement	<u>12</u>
	16
 Total	 <u>50</u>

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, and natural gas),

¹ One part-time Member is currently appointed for a period of one year. The appointment can be renewed.

- ▶ 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, and
- ▶ the citizens and governments of Nova Scotia who are generally affected by widespread economic changes resulting from Board decisions.

The new mandates noted above will add the following stakeholders:

- ▶ consumers purchasing gasoline and diesel oil,
- ▶ wholesalers and retailers selling gasoline and diesel oil,
- ▶ borrowers using payday loans services and the lenders making payday loan,
- ▶ users of wastewater systems in Halifax Regional Municipality.

Challenges

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

- ▶ 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 having specific regulatory, adjudicative and administrative responsibilities set out in statute or regulation, the UARB is essentially demand driven. Matters vary in complexity and volume of evidence submitted. Some matters require public hearings, some *in camera*² hearings, while others can be decided without a formal hearing. The total number of matters by type varies from year to year making advance planning

² 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.

difficult. During fiscal 2006 a total of 751 matters (fiscal 2005: 617; 2004: 718) of all types were decided by the Board.

- ▶ Inclusion in operations of the new mandates noted above. This includes considering what rules and practices must be modified or developed to accommodate the new responsibilities.
- ▶ 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 also includes considering applications to construct at least two Liquefied Natural Gas (LNG) plants in Guysborough and Richmond counties.
- ▶ Accommodating changes in the Nova Scotia energy industry resulting from ongoing implementation of the Government Energy Policy. This includes work relating to new initiatives to expand renewable energy resources and introduction of a limited wholesale energy market.
- ▶ Continuation of reviews and associated hearings relating to applications from all 55 towns and municipalities to confirm or amend their electoral boundaries. Under the *Municipal Government Act* all towns and municipalities were required to file an application during 2006. Nevertheless, filing extensions have been granted to some municipalities and some hearings will not occur until well into calendar 2007.

D. STRATEGIC GOALS

1. To produce fair, legally correct, timely and well reasoned decisions for all applications and appeals.
2. To maintain a safe and economically strong motor carrier fleet to meet the needs of the traveling public.

E. CORE BUSINESS AREAS

1. Quasi-judicial Function. This is the Board's primary function - to exercise the powers of the Legislature as delegated through various statutes. Operations are conducted by Board Members and supported with administrative and advisory 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

1. *To produce fair, timely, correct decisions.*
The Board has been tasked in legislation and regulation to receive applications and appeals, hear evidence and argument in an appropriate manner, and produce fair, legally correct and well reasoned decisions. For fiscal 2007 and future the Board set a target of rendering decisions within 90 days of the date of receipt of final evidence for hearings and 10 days for interlocutory matters³. Decision timelines are tracked for each member and incorporated into the performance review process.

2. *To improve service to the public and parties appearing before the Board.*
The following initiatives are planned for fiscal 2008:
 - a. Continue development of electronic documents and filing systems in order to improve access to information, reduce effort and expense in management of paper records, and reduce paper waste.

 - b. Examine the usefulness of computerized case management programs in use in other courts and tribunals and, if reasonable benefits are possible, implement such systems at the Board.

 - c. Improve our strategic planning process, including a focus on service delivery.

3. *To ensure proper stewardship of resources and effective administration.*
During fiscal 2007 the Board began to review its administrative policies develop a plan to update obsolete policies, add needed ones, or delete those that are no longer required. This project was not completed and is carried forward to fiscal 2008.

Outcome measures in a quasi-judicial environment are somewhat difficult to develop as the primary emphasis must always be on producing an unbiased, timely, fair and legally correct decision based on the specific facts of each case. The following are felt to be reasonable measures for the 2007 - 2008 planning period:

³ Interlocutory matters include rulings on preliminary issues and are sometimes temporary or provisional in nature.

Core Business Area: Quasi-judicial Function				
Outcome	Measure	Data Base Year 2007	Target 2007-2008	Strategies to Achieve Target
Produce timely, correct decisions.	Percentage of hearing decisions issued within 90 days of receipt of final submissions.	2006-2007 - 97.6%	95% or more of decisions released within 90 days of receipt of final submission.	Member results are tracked and reviewed by the Chair as part of the performance review process.
	Percentage of decisions relating to interlocutory matters released within 10 business days of final submission.	2006-2007 - 79.3%	95% or more of interlocutory decisions within 10 business days.	
	Average total time for processing case files.	No comparatives available yet.	New measure. No target yet established. Continue collecting data and background information from other jurisdictions.	Continue to develop collection systems, analyze the age of existing cases and seek comparative information on appropriate standards from similar entities.

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

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 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 2008 the Division will continue to safety inspect all vehicles under Board jurisdiction at least twice annually. In fiscal 2006 a total of 4,910 first inspections (2005: 4430) and 3,161 rechecks (2005: 2750) caused vehicles to be removed from service for repair in 3,247 instances (2005: 2752). Most vehicles were successfully returned to service after rechecks were completed. In addition 177 road checks (2005: 244) and 431 minor investigations (2005: 434) were conducted.

2. *Continue support to the Atlantic Provinces School Bus Purchase Program.*
 As in past years the Division will support 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.

The following is felt to be a reasonable measure relating to Motor Carrier activities for the 2007 - 2008 planning period:

Core Business Area: Motor Carrier Administration				
Outcome	Measure	Data Base Year 2007	Target 2007-08	Strategies to Achieve Target
Safe public passenger vehicles.	Number of preventable accidents caused by mechanical failure.	No accidents caused by preventable mechanical failure.	No accidents caused by preventable mechanical failure.	Continue existing inspection program. Analyze all public passenger accidents to determine cause. 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. During fiscal 2006 and 2007 the Board

developed and implemented its own human resources policy which it will continue to improve and build on during the 2008 fiscal year.

H. BUDGET CONTEXT

(A) Tangible Capital Asset (TCA) Funding

Tangible Capital Asset Spending:	Budget 2006 - 2007	Forecast 2006 - 2007	Budget - Next Fiscal Year 2007- 2008
	000's	000's	000's
12 Patrol Vehicles - Motor Carrier Enforcement	0.0	376.0	0.0

No TCA funding is required for fiscal 2007-2008. During the 2006-2007 fiscal year, the Board requested TCA funding to purchase 12 patrol cars to be used by the uniformed Motor Carrier inspectors in the performance of their highway enforcement duties. In past, the inspectors were responsible for equipping unmarked personal vehicles to carry out this work. The new marked vehicles will enhance safety and improve enforcement by introducing a more visible presence in the community and on highways. This was an unbudgeted request.

(B) Operating Budget

Nova Scotia Utility & Review Board - Estimated Budget Expenditures by Core Business			
Core Business (all)	Budget 2006 - 2007	Forecast ⁴ 2006 - 2007	Budget - Next Fiscal Year 2007- 2008
	000's	000's	000's
Revenues:			
Grant from Province of Nova Scotia	3,264.0	3,264.0	3,740.0
Recoveries from utilities and others ⁵	2,951.2	2,471.0	1,947.9
Unbudgeted recoveries ⁶	0.0	1,200.0	0.0
Total revenues	6,215.2	6,935.0	5,687.9
Expenditures: ⁷			
Budgeted	6,215.2	5,485.0	5,687.9
Unbudgeted recoverable ⁴	0.0	1,200.0	0.0
Total expenditures	6,215.2	6,685.0	5,687.9
Expected net income (loss)	0.0	250.0	0.0
Restricted surplus, beginning of year	735.0	765.2	1,015.2
Restricted surplus, end of year	735.0	1,015.2	0.0
Salaries and benefits	3,918.5	3,899.2	3,914.8
Funded Members and staff (FTE's)	52.0	51.0	49.0

⁴ Forecast figures are based on interim financial data and may vary materially from final results.

⁵ 2006-2007 budget figures include \$1,119,400 in anticipated hearing costs and recoveries relating to Petroleum Product Pricing . 2007-2008 figures do not as transfer of the mandate is uncertain at this time.

⁶ Relates primarily to direct expenses of hearings or certifying authority work recoverable from applicants.

⁷ Expenditures forecasts include recoverable unbudgeted expenses of major hearings, certifying authority work and related activities.

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 Water Commission Act, Acts of 1963, c. 55 as amended
13. Heritage Property Act, RSNS 1989, c.199
14. Liquor Control Act, RSNS 1989, c. 260 as amended
15. Motor Carrier Act, RSNS 1989, c.292 as amended
16. Motor Vehicle Transport Act of Canada, 1987 (Federal)
17. Municipal Government Act, SNS 1998, c.18 as amended
18. Nova Scotia Power Finance Corporation Act, RSNS 1989, c.351 as amended
19. Nova Scotia Power Privatization Act, SNS 1992, c.8
20. Petroleum Products Pricing Act, SNS 2005, c. 11
21. Petroleum Resources Removal Permit Act, SNS 1999, c.7 as amended
22. Pipeline Act, SNS 1980, c. 13 as amended
23. Public Utilities Act, RSNS 1989, c.380 as amended
24. Railways Act, SNS 1993, c.11 as amended
25. Revenue Act, SNS 1995-96, c.17 as amended
26. Theatres and Amusements Act, RSNS 1989, c. 466 as amended
27. Underground Hydrocarbons Storage Act, SNS 2001, c.37
28. Utility and Review Board Act, SNS 1992 as amended
29. Victims' Rights and Services Act, RSNS 1989, c.14 as amended