



**Nova Scotia Utility and Review Board
Business Plan
Fiscal Year Ending March 31, 2009**

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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, 2009. I feel this year's plan is a substantial improvement over prior years as a direct result of a new strategic planning initiative completed during fiscal 2007 - 2008. This project included gathering of input from the legal community, industry, Board staff, and Board Members. It assisted our understanding of priorities and future direction, and provided new insights on matters of importance to those we serve. The result is a solid plan introducing new mission and vision statements which have been further refined into three broad strategic goals designed to improve service delivery. 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. 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 strategic document entitled *Path to 2020: The New Nova Scotia*. Entities, such as this Board, are to set out their goals and priorities within the context of that direction, fiscal sustainability, a balanced budget, and the requirements of law.

Considering that direction, the Board's activities touch on the following priorities:

<u>Board Priorities</u>	<u>Corporate Path Links</u>
Quasi-judicial function	1.1 Globally competitive business climate 1.3 Globally competitive connections 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	1.3 Globally competitive connections 3.2 Accessible Services 3.3 Safe Communities 3.4 Vibrant Communities

Further refining the *Path to 2020* direction, Government has also published two coordinating frameworks entitled: *Opportunities for Sustainable Prosperity* and *Social Prosperity -Weaving the Threads: A Lasting Social Fabric*. Board activities affect the following links in those documents.

<u>Board Priorities</u>	<u>Co-ordinating Framework Links -</u>
Quasi-judicial function	<u>Opportunities for Sustainable Prosperity</u> <ul style="list-style-type: none"> ▶ Manage our natural capital to sustain our quality of life, our economy, and our environment (sustainable competitiveness) ▶ To support infrastructure that can be sustained, and will support current and future economic activity (transportation; municipal infrastructure)
Motor Carrier Administration	<u>Social Prosperity - Weaving the Threads</u> <ul style="list-style-type: none"> ▶ To support infrastructure that can be sustained, and will support current and future economic activity (transportation)

The Board’s indirect involvement in supporting these efforts is broadly contained in it’s mission and vision statements above. More specific detail on Board activities is included in the following sections.

D. 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.

Public utilities have, until recently, been organizations offering water and electricity to the public. During calendar 2007 sewer system assets were transferred from the Halifax Regional Municipality to the Halifax Regional Water Commission pursuant to an amendment of the *Halifax Regional Water Commission Act*. These sewer or wastewater systems are now included in the Board's jurisdiction under the *Public Utilities Act*.

- ▶ 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.
- ▶ 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*.

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. Of particular note, Halifax Regional Municipality is engaged in a review of its municipal planning strategy (MPS). A new or revised MPS could have an impact on the number and nature of appeals to the Board.

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

The Board has, or will have during the year, a total of 51 members and staff. As with many other organizations succession planning for senior staff is becoming more challenging. The Board relies on experienced professional staff to assist it in summarizing evidence, monitoring Board directed actions, resolving complaints and conducting research.

Recent changes to the regulations made under the *Liquor Control Act* have added responsibilities for some routine matters. These new activities may require some additional staff although the impact of the changes cannot be fully assessed at this time.

There are a number of key senior staff in the Motor Carrier Division who may be retiring in the next few years. Managing the replacement of these personnel will be important in order 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; and
- ▶ borrowers using payday loans services and the lenders making the loans.

Challenges

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

- ▶ Implementation of new priorities established during a significant strategic planning initiative carried out between April and November of 2007. Details of new 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 2006-2007 a total of 732 matters (fiscal 2005-2006: 751) of all types were decided by the Board;

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.

- ▶ Inclusion in operations of the wastewater mandate added in fiscal 2007-2008. This includes considering what rules and practices must be modified or developed to accommodate the new responsibilities;
- ▶ Continuing to adapt to changes made to regulations made under the *Liquor Control Act*. During fiscal 2007-2008 the regulations were substantially re-written resulting in some additional duties being assigned to the Board. The full impact of these changes is not yet known;
- ▶ 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;
- ▶ Completion of reviews and associated hearings relating to applications to confirm or amend school board electoral boundaries in preparation for elections in fall of 2008.

E. 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 newly revised goals – 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.

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

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 expects to work towards during the next three to five year period. Specific activities supporting each goal will be reviewed annually.

F. 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.

G. PRIORITIES

Core Area 1 - Quasi-judicial Function

While the Board intends 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 2008-2009.

1. Heighten the efficiency and effectiveness of the Board:
 - a. Establish targets for the phases and steps of each mandate;
 - b. Develop policy and rules to achieve the new targets;
 - c. Implement e-filing, information repository, and case management;
 - d. Develop user guides (for website).
2. Increase understanding of the Board:
 - a. Establish a process facilitator / navigator function;
 - b. Develop user guides for each mandate.

which could warrant a policy review.

3. Strengthen the Board's capacity to adapt to the future:
 - a. Identify core competencies;
 - 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 2008 - 2009 planning period:

Core Business Area: Quasi-judicial Function				
Outcome	Measure	Data Base Year 2005- 2006 Comparative 2006-2007	Target 2008-2009	Strategies to Achieve Target
Independently and fairly resolve matters	Percentage of hearing decisions issued within 90 days of receipt of final submissions.	2005-2006 - 97.6% 2006-2007 - 96.3%	95% or more of decisions released within 90 days of receipt of final submission.	- Introduction of electronic filing, information repository and case management programs
	Percentage of decisions relating to interlocutory matters released within 10 business days of final submission.	2005-2006 - 79.3% 2006-2007 - 83.7%	95% or more of interlocutory decisions within 10 business days.	- Develop user guides by mandate - Continue monitoring each member's performance
	Average total time for processing case files.	No overall comparatives available yet.	No targets yet established. Continue collecting data.	- Establish targets for the phases and steps of each mandate. ³ - Develop user guides by mandate - Introduction of electronic filing, information repository, and case management programs - 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:

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

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 2006 - 2007 a total of 5,008 first inspections (2005 - 2006: 4,876) caused vehicles to be removed from service for repair in 3,044 instances (2005 - 2006: 3,247). Further, 2,746 rechecks (2005 - 2006: 3,161) were performed. Most vehicles were successfully returned to service after rechecks were completed. In addition, 138 road checks (2005 - 2006: 177) and 400 minor investigations (2005 - 2006: 431) 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.

The following table details the performance measures relating to Motor Carrier activities for the 2008 - 2009 planning period:

Core Business Area: Motor Carrier Administration				
Outcome	Measure	Data Base Year 2005- 2006 Comparative 2006-2007	Target 2008-2009	Strategies to Achieve Target
Safe public passenger vehicles.	Number of preventable accidents caused by mechanical failure.	Number of accidents caused by detectable mechanical failure: 2005-2006: 0 2006-2007: 0	No accidents caused by preventable mechanical failure.	<ul style="list-style-type: none"> - 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.

H. 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 and succession planning process which it will continue to maintain during the 2009 fiscal year. The Board has its own employee recognition program in place. It also supports the principles of the Province's fair hiring, affirmative action, and diversity programs.

Included in strategic initiatives for fiscal 2009 are initiatives to identify core competencies and proactively coordinate training undertaken by staff and members. This will further develop Board staff thus strengthening the Board's capacity to adapt to the future.

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 in this division have 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.

I. BUDGET CONTEXT

Tangible Capital Asset (TCA) Funding

No TCA funding is required for fiscal 2008-2009.

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Operating Budget

Nova Scotia Utility & Review Board - Budget Context Chart			
Core Business (all)	2007 - 2008 Budget	2007 - 2008 Forecast ⁴	2008- 2009 Budget
	(\$thousands)	(\$thousands)	(\$thousands)
Gross expenses:			
Quasi-judicial - budgeted operations	4,389	4,475	4,648
Quasi-judicial - un-budgeted operations ⁵		1,336	
Motor carrier administration and enforcement	1,299	1,224	1,313
Total expenses	5,688	7,049	5,961
Revenues:			
Grant from Province of Nova Scotia	3,740	3,740	3,843
Recoveries from utilities and others	1,948	1,981	2,118
Recoveries - un-budgeted operations ⁶		1,328	
Total revenues	5,688	7,049	5,961
Net income (loss)	0	0	0
Restricted and unrestricted surplus⁷ - beginning of year	916	916	916
Restricted and unrestricted surplus - end of year	916	916	916
Board funded staff (FTE's)	50	50	51

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

⁵ 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.

⁶ Ditto

⁷ 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 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