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Delivered by E-mail

Nancy McNeil
Regulatory Affairs Officer/Clerk
Nova Scotia Utility and Review Board
3rd Floor 1601 Lower Water Street
PO Box 1692 Unit "M"
Halifax NS B3J 3S3

Dear Ms. McNeil:

**Re: CI #28098 TUC6 Waste Heat Recovery Project
Authority to Overspend (ATO), NSUARB P-128.07**

In its original application dated September 11, 2007, NSPI sought approval of $66.3 million for the entire TUC6 Waste Heat Recovery Project.

By decision dated December 21, 2007, the Board found that the waste energy recovery portion (without duct firing) at the TUC6 Project was shown to be economic and in the interests of ratepayers.

On May 28, 2008, NSPI sought Board approval of a revised Work Order including duct firing. In the six months between the Board's decision and NSPI's revised filing, it revised its capital expenditure request from an original cost estimate of $66.3 million to $84.3 million, $13.5 million of which was attributable to the addition of duct firing.

The Board declined to accommodate NSPI's request for an expedited decision as it did not provide the time necessary to adequately review submissions of other parties and to satisfy itself the criteria for the addition of duct firing has been met and that an increase of more than 25% in the estimated cost of the project is "*warranted and justifiable*".

In the result, the Board was satisfied that the duct firing addition met the economic justification criteria based on the immediate and significant fuel cost reductions. In its letter of September 18, 2008, the Board continued, however:

> *The Board does wish, however, to make it clear to NSPI that its approval of both components of this project is strictly based on the revised cost of $84,296,764 and its clear understanding that this project can successfully be completed at or below*

this approved amount. In this regard, the Board notes that NSPI, in its response dated August 22, 2008, stated that:

> *NSPI will make every effort to manage this project, once approved, to the lowest reasonable cost to customers ... The Company is confident that timely approval will help to ensure the current costs estimated can be achieved.*

NSPI should be keenly aware that should the actual cost of this project exceed that amount, this Board will scrutinize an application by NSPI to overspend that amount carefully to ensure that this project continues to be economically justifiable and in the best interest of ratepayers.

The issue for the Board in considering this ATO is whether the Project continues to be **economically justified** and in the **best interest of ratepayers** and, in addition, whether NSPI has **managed the Project** to the **lowest reasonable cost** to customers.

NSPI itself discusses its management obligations in its recent Reply Submissions filed in the Port Hawkesbury Biomass Project (CI #39029, P.128.10). In addressing the approach to be taken by the Board in reviewing Capital Work Order applications. NSPI notes at page 2 of its submission:

> *In determining whether the Project is economically justified and will therefore allow rates to continue to be just and reasonable,* ***NSPI anticipates that the UARB will also consider NSPI's diligence and prudence in the development of the project, and in management of the risks that accompany the project.*** *Diligence is demonstrated by the identification of potential risks and incorporation of appropriate mitigation measures. Prudence allows for a range of reasonable and appropriate actions to acceptably manage risk, and requires neither perfect accuracy or guaranteed elimination of all risk. [emphasis added]*

In this case, NSPI's approved capital expenditure in 2008 included a contingency of $7,213,207. NSPI has burned through that contingency and now seeks to overspend by approximately $8.7 million.[1]

NSPI has no general contingency cushion left in its spending. Nonetheless, it states that the need for a general contingency is mitigated and the remaining risk has been "incorporated into the individual cost component budget". From this, one can infer that NSPI has embedded into the ATO a contingency risk factor. NSPI has stated the ATO estimate is accurate plus-minus 2%.[2]

While the economic analysis may support a capital cost of $93 million overall, it appears that on a net present value (NPV) basis, there has been a change in the NPV of the Project due the

[1] NSPI (UARB) IR-20.

[2] NSPI (UARB) IR-20.

change in the in-service date and capital costs. NSPI has declined to quantify the effect of the delay on 2010 fuel costs.[3]

From the Responses to IRs produced, we do not have the technical expertise to evaluate whether the changes could have or should have been contemplated at the time of the initial filing and approval, whether costs were externally driven by matters beyond the control of NSPI or whether they were within the control of the company.

If these costs, as set out by NSPI are *necessary*, then NSPI will be required to incur the costs. The issue is moreso whether these costs were prudently incurred and whether NSPI managed the Project diligently such that the entire capital expenditure will be included in rate base or whether some lesser amount will be allowed.

In making application for approval of capital expenditures, NSPI alone is in the position to evaluate and estimate the costs of the proposed Project. These costs inform the economic justification; to have the costs increase from $66.3 million to $84.3 million and now to $93 million undermines NSPI's credibility and cost representations.

It is disconcerting to customers that the cost of the Project has grown exponentially. The Avon Group respectfully submits that NSPI's shareholders should share the costs of these exceedences, particularly where the NPV of the Project has demonstrably declined and the fuel cost savings did not materialize in the anticipated time frame.

Respectfully Yours,

Nancy G. Rubin

NGR/lmc

cc NSPI
Board Counsel
Interested Parties

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[3] NSPI (NBP) IR-4 and NSPI (UARB) IR-7.

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