



*May 6, 2011*

With respect to the final submission made by the Government of Nova Scotia, the Ecology Action Centre offers the following rebuttal. The Public Utility Act, Section 87.1-87.3, Section 90 and Section 116.2 empowers the Board to do the following:

- ☐ Cancel or determine by order the correction of rates when they are unjust, unreasonable, insufficient, unjustly discriminatory or preferential (87.1)
- ☐ Determine and substitute other regulations, time schedules, services or acts to make such changes required for just and reasonable rates (87.2)
- ☐ Fix, determine and require the conditions governing (distribution) extension services (87.3)
- ☐ When determining questions of fact, the Board shall not be bound by the findings or judgment of any court in any other proceeding, but rather such judgment shall only be based upon the evidence presented before the Board in the proceeding of question (90)
- ☐ When interpreting the Act, the Board shall have all additional, implied and incidental powers which may be proper or necessary to carry out, effect, perform and execute all of the powers indicated by the Act (116.2)

The Ecology Action Centre supports the assertions made by Black River Wind Ltd. that the representatives of the Government of Nova Scotia did not present evidence within the COMFIT proceedings, nor did the Government adequately or actively participate in the COMFIT proceedings by bringing forward expert panelists or by actively and substantially cross-examining those witnesses brought forward by other stakeholders.

Therefore, given the lack of substantive participation on the part of the Government, and, the powers granted to the Board within the Public Utilities Act, the Ecology Action Centre suggests that it is well within the scope and mandate of the Board, to use linear interpolation to set more than two tariffs for wind, as was suggested by E3 Analytics, and to interpret the COMFIT rate-setting as it sees fit, with respect to upholding the public interests of Nova Scotians and ensuring cost-effectiveness and success of the proposed COMFIT policy. This also includes the ability of the Board to issue directives to the utility with respect to the resolution of outstanding distribution interconnection issues that may hinder the abilities of COMFIT stakeholders to participate.



However, as the Ecology Action Centre has suggested previously, given the considerable level of outstanding issues with the COMFIT (i.e. financing, discriminatory eligibility restrictions etc.), most likely higher-level policy changes are required to meet the sustainable prosperity goals of EGSPA and the intentions of the amendments to the Electricity Act that brought forth the COMFIT.

Most importantly, at a higher-level, this requires that the Government show leadership by giving further consideration to the opportunities for electricity market restructuring that could better support supply competition in the Nova Scotia electricity market, as a means of cost-effectively and aggressively developing distributed, decentralized and domestic renewable electricity supplies, and all of the auxiliary benefits such an approach may bring to average Nova Scotians interested in a sustainable, local, renewable energy economy. However, the Ecology Action Centre recognizes that these higher-level considerations are beyond the jurisdiction of the Board.

It is truly perplexing that, after the conclusion of the proceedings, the Government of Nova Scotia has suggested that Board does not have the jurisdiction to make the necessary changes that are required to ensure that the COMFIT policy cost-effectively and efficiently meets with success for its intended beneficiaries, particularly since COMFIT is a Government-led initiative that is targeted at the growth of renewable electricity supplies with, supposedly, broad benefits for Nova Scotians.

The Ecology Action Centre respectfully submits to the Board's discretionary powers on these matters and encourages the Board to take the any and all actions necessary to ensure the COMFIT is not a failed policy at a time when Nova Scotians deserve aggressive and efficient renewable electricity policies to assist in mitigating the global climate crisis in a rapid fashion.

Best Regards,

Brennan Vogel (BES, MA)

Climate Change & Energy Coordinator

Ecology Action Centre

Halifax, NS