Exhibit - N-32

ORIGINAL

2006 P-886

**NOVA SCOTIA UTILITY AND REVIEW BOARD**

**IN THE MATTER OF THE PUBLIC UTILITIES ACT**

**- and -**

**IN THE MATTER OF AN APPLICATION BY NOVA SCOTIA POWER INCORPORATED AND A HEARING FOR APPROVAL OF CERTAIN REVISIONS TO ITS RATES, CHARGES AND REGULATIONS**

**RESPONSES TO INFORMATION REQUESTS**

To: Stora Enso Port Hawkesbury Limited and
Bowater Mersey Paper Company Limited ("SEB")

From: Nancy Brockway (On behalf of the Consumer Advocate)

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Nova Scotia
Utility and Review Board

**IR-1. On page 4, Ms. Brockway states "the Board determined that the base energy charge for ELIIR-2 customers should be $52.12 per MWh. This figure is consistent with a fuel cost of about $430 - 434 million."**

**a. Please explain exactly what Ms. Brockway means by the statement "is consistent with."**

**RESPONSE:** See the response to 1b, below.

**b. Please provide the source of the range $430 to $434 million, including any workpapers of Ms. Brockway supporting this statement.**

**RESPONSE:** The source of the range $430 to $434 million is the COSS runs provided by NSPI in the ELIIR-2 docket in response to SEB IR 1a and 1b. Mr. Tedesco's testimony in the cited transcript reference in turn referenced per mWh prices within the range represented by the results of the COSSs provided in response to IRs 1a and 1b.

**c. Please confirm or deny that the $52.12 includes a credit for economic interruptibility based on the same LFO costs that were used to determine the same fuel cost budget of $434 million. If denied, please explain the full basis for the $52.12 per MWh figure.**

**RESPONSE:** According to the Board's recitation of Dr. Stutz' calculation in Exhibit JS-8 of the ELIIR-2 rate, at p. 25 of P-883, and on which the Board based it's ELIIR-2 alternative priced at $52.12 per mWh, the rate reflects the value of economic interruptibility, based in turn on "NSPI forecast price of oil for CTs." I believe that the forecast price of oil for CTs was drawn from the same fuel cost budget that produced an estimated $434 million overall fuel cost.

**IR-2. On page 7, Ms. Brockway states that if the Company had presented a fuel forecast in P-883 closer to its present $499 forecast, the Board may have approved a higher base energy charge in P-883 for ELIIR-2 customers, that in turn might have affected the percentage increases expected of such customers in this rate case.**

**a. Is Ms. Brockway proposing that the ELIIR-2 rate should have been predicated on a fuel cost that is different from the fuel cost budget used to establish the rates for all other customers in the province?**

**RESPONSE:** Yes, if and to the extent the best fuel forecast available at the time of the ELIIR-2 hearing was different from that used to establish rates for all other customers in the province in the most recent base rate case. Failing that, in order to maintain consistence with ELIIR, NSPI should be held to the old forecast in setting rates in this docket. That is, there should be no gap in cost recovery as a result of ELIIR-2 ratemaking that non-ELIIR customers are required to make up in their rates.

**b. If so, please provide all regulatory precedent or reasoning for this conclusion.**

**RESPONSE:** See item a, above, and item c, below.

**c. If so, please explain how that would be consistent with the Board's decision in the recently concluded proceeding P-883, particularly the decision to set the ELIIR-2 rate on a cost of service study that included all the other above-the-line rate classes.**

**RESPONSE:** To do anything other than use the same fuel forecast for ELIIR-2 customers and all other customers would be inconsistent with underlying logic of the Board's decision in P-883. The Board in P-883 did not determine that ATL customers are the backstop source of revenues to make NSPI whole in the event ELIIR rates no longer recover a fair share of allocated costs.

In the Order, the Board did not explicitly address the question of NSPI's ability to recover from non-ELIIR customers (specifically, above-the-line or ATL customers), any shortfall in revenues associated with the implementation of the ELIIR-2 alternatives, in particular the basic energy

charge. When discussing whether ELIIR-2 should be above-the-line or below-the-line, the Board discussed only SEB's argument that ELIIR should remain a BTL rate in order that SEB could argue for a different COSS methodology to allocate demand-related production plant than is used above the line. P-883 Order at paragraph 175. The Board had determined that the same COSS methodology should be used above-the-line and for ELIIR customers.

As noted, the Board expressly ruled that further adjustments to the ELIIR replacement rates would only be made during a general rate case, along with changes to ATL rates. In light of these factors, the Board determined that "the significance of the ATL/BTL distinction is diminished." *Id.* at paragraph 177. The only other discussion in the order of the ATL/BTL distinction related to potential changes in the ELIIR replacement rates for operational considerations. *Id.* at paragraphs 178 and 179. Thus, the Board's order does not state NSPI may leave ELIIR replacement rates at the level set in P-883 and then expect ATL customers in the next ratesetting to make up the difference between ELIIR revenues and ELIIR costs as determined in this next rate case.

Further, the Board ruled that changes to ELIIR rates in future should be made in general rate cases (aside from operational adjustments). P-883 at paragraph 176. It is true that the Board determined that ELIIR replacement rates would remain below-the-line. But this does not mean that above-the-line customers are the residual payers of any shortfalls in revenue from ELIIR-2 customers.

**d. If so, please specify which cost elements or formulae should be used exclusively for ELIIR-2 and which should be common to all rate classes.**

**RESPONSE:** Not applicable.

**IR-3. Is it Ms. Brockway's position that the $499 million fuel forecast, upon which the Company is predicating the instant application, is accurate? If so, please provide the support for Ms. Brockway's belief that the $499 million forecast is accurate.**

**RESPONSE:** No. Ms. Brockway is only stating that non-ELIIR customers should not be the residual payers of fuel costs incurred by NSPI that have not been included in ELIIR rates as a result of the separate timing of ELIIR rate consideration.

**IR-4. If, hypothetically, the Board had approved a higher base energy charge for ELIIR-2 in P-883, is it Ms. Brockway's position that NSPI should have kept the**

**extra revenues, or is it her position that the Board should have reduced all other rates by a commensurate amount?**

**RESPONSE:** The question assumes there would have been "extra revenues" had ELIIR-2 base energy charges reflected a more current fuel forecast. If more current and higher fuel forecast were accurate, rather than the forecast used in P-883, there would be no "extra revenues." There would be revenues covering costs.

**IR-5. On page 9, Ms. Brockway states that given the current higher fuel forecast, the level of credits (produced by load shifting of the ELIIR-2 customers) is likely to be even higher than estimated by Dr. Rosenberg.**

**a. Does Ms. Brockway agree or disagree with the premise that the level of credits produced by load shifting is a function of the difference between the marginal fuel cost in the hours when load is decremented and the marginal fuel cost in the hours when the load is incremented, rather than on the absolute level of the fuel costs?**

**RESPONSE:** Yes.

**b. Has Ms. Brockway conducted any independent studies or analyses on how much credits ELIIR customers may or may not achieve by load shifting in 2007? If so, please provide complete copies of those investigations.**

**RESPONSE:** Ms. Brockway has not conducted such studies or analyses.

**IR-6. Does Ms. Brockway agree or disagree that if the difference between the marginal fuel cost in the hours when load is decremented and the marginal fuel cost in the hours when the load is incremented is greater in 2007 than it was in 2006, then not only would the credit received by the ELI-RTP customers be greater than that previously estimated, but the fuel savings realized by NSPI would be greater as well?**

**RESPONSE:** Without analyzing whether this scenario is likely, Ms. Brockway agrees with the logic of the statement.

**IR-7. On page 9, Ms. Brockway is requesting that the Board change its determination of the R/C ratio used for establishing the ELIIR-2 base energy charge, that it made less than three months ago, after careful deliberation.**

**a. Is Ms. Brockway requesting that the Board change any other determinations in docket P-883? If so, please explicitly delineate Ms. Brockway's requests in that regard.**

**RESPONSE:** Ms. Brockway is recommending that the rates of non-ELIIR-2 customers not be increased by the amount necessary to hold ELIIR-2 rates to a level based on outdated cost information. The fuel cost is one element that has been identified as possibly having been under-forecast in P-883. To the extent other costs may have changed since the Cost of Service Studies from P-881 relied on in P-883 which affect elements of the ELIIR-2 rate (e.g. customer costs), then those elements should be updated if the alternative is to rely on other customers to make up any shortfall. And finally, the introduction of an entirely new cost of service (revenue requirement) affects the unadjusted R/C ratios of all classes, and the ELIIR-2 R/C should not be held constant in light of these movements in relative R/C ratios, if the effect is to shift costs unfairly to other classes.

**b. What evidence on the ELIIR-2 rate is new that was not in evidence in September 2006, less than 3 months ago, when the Board made its decision on ELIIR-2?**

**RESPONSE:** The new evidence constitutes the updated fuel forecast, and other increases in costs, which affect the R/C ratios of all classes of customers.

**c. Is Ms. Brockway requesting that the Board change its decision not to review the cost of service methodology that it made in 1995, over 11 years ago?**

**RESPONSE:** No.

**d. If the Board reverses a policy decision in only a few months, what message does Ms. Brockway believe that sends on the confidence that stakeholders place on regulatory stability in Nova Scotia?**

**RESPONSE:** Ms. Brockway is not recommending the reversal of any policy decisions taken in the ELIIR-2 docket.

**IR-8. Please define the term "retroactive ratemaking", as it is used on page 22 of Ms. Brockway's testimony and explain Ms. Brockway's view of that practice from a regulatory perspective.**

**RESPONSE:** Retroactive ratemaking occurs when a rate is set that requires consumers to pay for past deficits of a utility or that requires a utility to refund to consumers a portion of its previously earned profits. This is the definition of the Vermont Supreme Court in *In Re Central Vt. Public Service Corp.*, 144 Vt. 46, 56 (1984), and it is a definition with which I agree. There can

be exceptions to this principle, in cases where the statute allows for reconciliation of revenues with actual costs (as in the case of a fuel cost adjustment clause), or in the case of extraordinary expenses. The Board has so far explicitly rejected the concept of a fuel clause, and I do not consider the alleged one-time deficit of $18.3 million in fuel costs an extraordinary expense.

There are a number of reasons why the regulatory doctrine prohibiting retroactive ratemaking is important and should be honored. One is that if consumers and investors, respectively, cannot be assured that final rates are indeed final, the resultant uncertainty about rate levels increases costs for all parties. Another is that if customers do not know if rates that are called "final" are indeed final until their re-determination in the next rate case, they may budget to pay those supposedly final rates but later learn that they should have set aside more, which now they cannot. Another is that deferrals create potential generational inequities, where one set of customers uses power that causes the company to incur costs (or create benefits, as the case may be), and another set of customers pays the costs (or reaps the benefits).

Another is that opening the door to deferred expenses (or benefits) that distort the test year will create the need for greatly increased regulatory hearings, as each deferral should be subject to the same need for notice to potentially affected parties and rigorous examination as takes place on a comprehensive scale in a rate case. In the absence of such process, fundamental fairness would not be observed.

Most importantly, if utilities are allowed to defer losses between rate cases and make themselves whole retroactively by spreading the differential out over time in future rates, the central incentive of prospective ratemaking for utility economies and efficiencies in operations will be undermined.

**IR-9. On page 27, Ms. Brockway discusses tolerable burdens for residential households:**

**a. Is it Ms. Brockway's position that residential customers using electricity for space heat with an annual electric bill of more than 10% of annual income, and residential customers not using electricity for space heat with an annual electric bill of more than 5% of annual income, be given a discount on their electric rates to keep their bill within that threshold?**

**RESPONSE:** The purpose of my testimony was not to request that any particular program or special rate be established for low income consumers. Rather, my objective was to continue to draw attention to the problems encountered by low income individuals attempting to pay for electric

power. It is a problem that should not be forgotten or continually left for another day. There has to be a better, more adequate, response developed. Obviously an adequate solution has not yet been found. A satisfactory response will require initiatives by government, NSPI, other consumers and the regulator. Whether that includes a program (such as the Good Neighbour Program) developed by NSPI, some form of permitted rate relief within the jurisdiction of the Board, a subsidy put in place by the government, or some other methods has yet to be determined. The program described in Mr. Colton's report to which I referred is an example of an approach. I recognize that the solution to the issue will not be found in this rate hearing but it is my hope that my evidence will serve to stimulate consideration of the problems described and thus assist in the development of ways, appropriate to Nova Scotia, to ease the disproportionate burden that power rates impose on those of us who are at the low end of the economic spectrum.

**b. If so, from whom does Ms. Brockway suggest that money be recovered (for example, other residential customers, all other customers, all other customers and NSPI, just NSPI)?**

**RESPONSE:** See the answer to question 9a.

**c. What would be the impact, as a percentage of annual electric revenue, of Ms. Brockway's proposal in this regard?**

**RESPONSE:** See the answer to question 9a.

**IR-10. If electric affordability for Residential customers should be measured as a percentage of household income, should electric affordability for manufacturers be measured as their electric power costs as a function of their after-tax profit?**

**RESPONSE:** I am not familiar with the use of the term "affordability" when applied to manufacturers or other commercial/industrial customers. To the extent the question is whether after-tax profits should figure into a determination of whether below-cost rates are justified to keep the manufacturing customer on line and contributing to fixed costs, the answer is "yes."

**IR-11. Is it Ms. Brockway's position that manufacturers for whom electricity is unaffordable, as measured by some appropriate metric, receive a subsidy for their electric bill?**

**RESPONSE:** I do not support a subsidy.

**IR-12. Would Ms. Brockway agree that if electricity were more affordable for industrial customers, that may lead to more high paying jobs in the Province and so mitigate the problem of affordability for residential households?**

**RESPONSE:** It is not possible to answer the question without a better understanding of what is meant by the phrase "more affordable" in the question.

**IR-13. Please specifically identify all low-income energy programs that Ms. Brockway is recommending in this proceeding, and quantify how the funding of those programs will impact other ratepayers.**

**RESPONSE:** See the answer to question 9a.

**IR-14. Was Mr. Colton's report, attached as Exhibit NB-7, ever presented before the Ontario Public Utility Board? If so, please provide transcripts of Mr. Colton's cross examination and a copy of the Board's decision in that proceeding.**

**RESPONSE:** I do not know if Mr. Colton's report was ever presented to the Ontario Public Utility Board, and have no transcripts of any cross-examination, nor copies of any Board decision on the matter.

**IR-15. Please quantify the dollar impact of Ms. Brockway's recommendations as to low income bill affordability in this proceeding on the revenue requirement of NSPI, as well as Ms. Brockway's recommendation for the allocation of this revenue requirement among customers.**

**RESPONSE:** As I am not proposing the immediate adoption of Mr. Colton's proposal in this docket, there is no dollar impact of my recommendations in this proceeding on the revenue requirement of NSPI, and thus no recommendation concerning allocation.

**IR-16. In its recent Decision regarding the ELIIR replacement rate, P-883, the Board found at Paragraph 120 as follows:**

> **"Further, the Board accepts the advice and recommendation of Dr. Rosenberg and Dr. Stutz that an hourly rather than a monthly allocation of fuel costs would reduce the costs assigned to the high load factor customers such as those served on the current ELIIR. To address that concern, the Board agrees with Dr. Stutz and Dr. Rosenberg that for purposes of rate design the R/C ratio should be set at the low end of the range (i.e., 95%)."**

**a. Please indicate what further evidence is on the record in this proceeding regarding an hourly versus monthly allocation of fuel costs?**

**RESPONSE:** I am not aware of further evidence on the record concerning hourly versus monthly allocation of fuel costs.

**b. Please confirm whether Ms. Brockway is aware that in the recent decision of the UARB determining that a cost of service hearing was not warranted at this time (P-883 (2)) that the Board also directed NSPI to file an updated report on the impact on hourly allocation of variable energy-related costs by May 31, 2007.**

**RESPONSE:** Yes.