DECISION

NSUARB-NSPI-P-886
2007 NSUARB 8

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** for approval of certain Revisions to its Rates, Charges and Regulations

BEFORE:

Peter W. Gurnham, Q.C., Panel Chair
Margaret A. M. Shears, Vice-chair
Kulvinder S. Dhillon, P. Eng., Member

COUNSEL:

NOVA SCOTIA POWER INCORPORATED
René Gallant, LL.B.
Terry Dalgleish, Q.C.

AFFORDABLE ENERGY COALITION
Claire McNeil, LL.B.
Megan Leslie
Marc Dunning

AVON VALLEY *et al.*
Robert G. Grant, Q.C.
Nancy G. Rubin, LL.B.
Mark Freeman, LL.B.

CANADIAN MANUFACTURERS & EXPORTERS
Robert Patzelt, Q.C.

CONSUMER ADVOCATE
John P. Merrick, Q.C.
William L. Mahody, LL.B.

ECOLOGY ACTION CENTRE
Brendan Haley

HALIFAX REGIONAL MUNICIPALITY
Martin C. Ward, Q.C.
Julian Boyle

MUNICIPAL ELECTRIC UTILITIES OF NOVA SCOTIA CO-OPERATIVE
Don Regan

NDP CAUCUS OFFICE
Howard Epstein, MLA

PROVINCE OF NOVA SCOTIA (Department of Energy)
Stephen T. McGrath, LL.B.
Scott McCoombs
Richard Penny

STORA ENSO PORT HAWKESBURY LIMITED and **BOWATER MERSEY PAPER COMPANY LIMITED**
George T. H. Cooper, Q.C.
David S. MacDougall, LL.B.
James MacDuff, LL.B.

HEARING DATES:	January 22, 23 & 24, 2007
FINAL SUBMISSIONS:	January 26, 2007
LIST OF INTERVENORS:	APPENDIX A
BOARD COUNSEL:	S. Bruce Outhouse, Q.C.
DECISION DATE:	**February 5, 2007**
DECISION:	**Settlement Agreement approved; Average rate increase of 3.8% effective April 1, 2007; Public hearing on FAM proposal approved subject to conditions.**

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1.0 INTRODUCTION

[1] This decision is further to a public hearing conducted by the Nova Scotia Utility and Review Board (the "Board") over 3 days between January 22 and January 24, 2007, in the matter of an application by Nova Scotia Power Incorporated ("NSPI", the "Company", the "Utility") for approval of revisions to its Rates, Charges and Regulations.

[2] NSPI is engaged in the production and supply of electrical energy. It distributes electricity through a province-wide system and, as at December 31, 2005, served approximately 470,000[1] customers, including six municipal electric utilities.

[3] In its application, dated October 10, 2006, NSPI requested an increase in rates in order to meet its estimated revenue requirement for 2007 of $1,197.6 million.[2] NSPI used 2007 estimated costs as a 'test year' for the purpose of determining the additional revenue it required and the corresponding rate increases for its various customer classes should its application be approved. The proposed overall average rate increase was 7.5%, with certain customer classes subject to a higher or lower rate increase. For example, residential customers would see a 9% increase with increases ranging from 3.5% to 11.1% for all other metered classes of customers. NSPI stated that an increase in rates is necessary primarily due to increased costs in the fuel used to generate 90%[3] of NSPI's energy production.

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[1] Emera 2005 Annual Financial Report, p. 5

[2] Exhibit N-1, p. 5

[3] Exhibit N-1, page 2

[4] On November 3, 2006, following submissions from intervenors and NSPI, the Board set out an Issues List which specifically identified those matters which would be the focus of the public hearing.

[5] Prior to the hearing, NSPI acknowledged that, as a result of a decline in fuel prices, its estimated 2007 fuel costs would be approximately $8 million less than that set out in the application. However, NSPI did not revise its application, stating that the reduction in fuel costs would be offset by increases in other costs which it expects to incur.

[6] The public hearing was duly advertised in accordance with *Sections 64* and *86* of the *Public Utilities Act*, R.S.N.S. 1989, c. 380, as amended (the "*Act*"), which read as follows:

> **Approval of schedule of rates and charges of utility**
> **64 (1)** No public utility shall charge, demand, collect or receive any compensation for any service performed by it until such public utility has first submitted for the approval of the Board a schedule of rates, tolls and charges and has obtained the approval of the Board thereof.
>
> **Filing with Board**
> **(2)** The schedule of rates, tolls and charges so approved shall be filed with the Board and shall be the only lawful rates, tolls and charges of such public utility until altered, reduced or modified as provided in this Act. R.S., c. 380, s. 64.
>
> **Notice of hearing of application for rate changes**
> **86** Notice of the hearing of any application, for the approval of or providing for an increase or decrease in the rates, tolls and charges of any public utility, shall be given by advertisement in one or more newspapers published or circulating in the cities, towns or municipalities where such changes are sought, for three consecutive weekly insertions preceding the date of said hearing, unless otherwise ordered by the Board. R.S., c. 380, s. 86.

[7] A total of 18 formal intervenors responded to NSPI's application. A number of these parties (identified in Appendix A attached) were represented at the hearing by counsel. The Nova Scotia Department of Energy (the "Province"); the Consumer Advocate (the "CA"); Avon Valley *et al.* ("Avon"), whose Counsel represented approximately 15

intervenors; Stora Enso Port Hawkesbury Limited and Bowater Mersey Paper Company Limited ("SEB"); Halifax Regional Municipality ("HRM"); Affordable Energy Coalition ("AEC"), whose counsel represented four individuals; Ecology Action Centre ("EAC"); Canadian Manufacturers & Exporters ("CME"); the NDP Caucus office; and the Municipal Electric Utilities of Nova Scotia Co-operative ("MEUNSC") all participated in the hearing. The Board also received numerous submissions from members of the public opposing NSPI's application.

2.0 BACKGROUND

[8] NSPI is a vertically integrated, investor-owned, regulated public utility with a virtual monopoly on electricity service throughout the Province. It is the primary electricity supplier in Nova Scotia, providing over 95% of the electricity generation, transmission and distribution in the Province. The Board regulates NSPI in the public interest on a cost-of-service basis. The *Act* gives the Board broad regulatory oversight over public utilities and provides it with the authority to discharge its regulatory responsibilities. In addition to statutory requirements to be considered during a general rate application, the Board is also guided by long-established, fundamental rate-making principles. In its Decision dated March 31, 2005, on a rate application by NSPI, the Board explained these guidelines as follows:

> In utility regulation, there are generally accepted principles which govern the rate-making exercise. The object of rate-making under a cost-of-service-based model is that, to the extent reasonably possible, rates should reflect the cost to the utility of providing electric service to each distinct customer class. In regulating NSPI, the Board is guided by these generally accepted principles as well as by case law.

A widely-accepted publication written by Dr. James Bonbright entitled **Principles of Public Utility Rates,** sets out the following guidelines for determining appropriate rates:

CRITERIA OF A SOUND RATE STRUCTURE

1. The related, "practical" attributes of simplicity, understandability, public acceptability, and feasibility of application.
2. Freedom from controversies as to proper interpretation.
3. Effectiveness in yielding total revenue requirements under the fair-return standard.
4. Revenue stability from year to year.
5. Stability of the rates themselves, with a minimum of unexpected changes seriously adverse to existing customers. (Compare "The best tax is an old tax.")
6. Fairness of the specific rates in the apportionment of total costs of service among the different consumers.
7. Avoidance of "undue discrimination" in rate relationships.
8. Efficiency of the rate classes and rate blocks in discouraging wasteful use of service while promoting all justified types and amounts of use:
   (a) in the control of the total amounts of service supplied by the company;
   (b) in the control of the relative uses of alternative types of service (on-peak versus off-peak electricity, Pullman travel versus coach travel, single-party telephone service versus service from a multi-party line, etc.).

(Board Decision, March 31, 2005, p. 14)

[9] The Board continues to make its decisions in accordance with the *Act*, and the principles noted above.

[10] As a result of questions and issues raised by NSPI and a number of intervenors, the Board held a pre-hearing conference on December 7, 2006. The Board issued a letter dated December 8, 2006, providing direction and confirmation with respect to the matters relating to the hearing which had been raised.

[11] At the commencement of the public hearing on January 22, 2007, NSPI filed a Settlement Agreement (the "Agreement")(Exhibit N-48), which was endorsed by most of the formal intervenors. The Board adjourned the hearing to provide an opportunity to all parties to review the document, and when the hearing reconvened on January 23, 2007, additional specific information regarding the impact of the Settlement Agreement (i.e., the

revenue to cost ("R/C") ratios and proposed rate increases) was filed by NSPI (Exhibit N-49). SEB and CME, following a review of Exhibit N-49, also signed the Agreement.

3.0 SETTLEMENT AGREEMENT

3.1 Process

[12] At the beginning of the hearing, S. Bruce Outhouse, Q.C., Board Counsel, outlined the process by which the parties had reached the Agreement:

> ... The Settlement Agreement, as it's referred to, was negotiated -- has been negotiated between NSPI and the intervenors who signed confidentiality agreements. The reason that the negotiations were confined to the intervenors who had signed confidentiality agreements was because the main subject of the negotiations was fuel and specifically the NSPI projections of fuel cost estimates for the test year. So, that's where the negotiations began and they did not conclude until this Saturday past, and in fact the agreement was signed yesterday. The intention had been, if an agreement was reached, to bring the non-confidential intervenors into the discussions, but unfortunately time did not permit that. Of important note is the fact that not all confidential intervenors have signed the Settlement Agreement. The Settlement Agreement that you see in front of you is between NSPI on the one hand, Avon Valley et al, the clients represented by Ms. Rubin, Mr. Grant, Mr. Freeman, the Consumer Advocate, the Halifax Regional Municipality, the Municipal Electric Utilities Cooperative of Nova Scotia and Board staff represented by me as Board counsel. And I should say in that connection that the agreement has the support and endorsement of the Board's outside consultants, that is Dr. John Stutz and the Liberty Group. The confidential intervenors who did not sign the Settlement Agreement are, first and foremost, SEB. I say that because it's my understanding that they actively intend to pursue their case in this hearing and that the hearing will, therefore, proceed despite the settlement. The two other confidential intervenors who have not signed are Canadian Manufacturers and Exporters, and Mr. Patzelt is here and he can speak to it if he wishes, but it is my understanding of CME's position that because some of their members represented by the Avon group have signed and other of their members, namely SEB, have not signed, they feel themselves in a conflict position and will neither be supporting or opposing the Settlement Agreement. The other confidential intervenor who has not signed is the Province, and perhaps it would be appropriate at this point if the Board called on Mr. McGrath and he could speak to that just very briefly.
>
> ...
>
> ... The Settlement Agreement, if approved, would have the effect of reducing the company's revenue requirement for the 2007 test year by $38.1 million dollars, from $1 billion, 197.6 million to $1 billion, 159.5 million. The settlement, if approved, would result in an average rate increase for above-the-line customers of approximately 3.8 percent.

The third point I would mention of note is that the Settlement Agreement contains a request by the signatory parties that the Board establish a process to develop a fuel adjustment mechanism.

(Transcript, January 22, 2007, pp. 10-12 and p. 14)

3.2 Terms

[13] The Agreement reads as follows:

MINUTES OF SETTLEMENT

WHEREAS the Applicant, Nova Scotia Power Inc. ("NSPI"), the undersigned Intervenors (Avon Valley et al, the Consumer Advocate, the Halifax Regional Municipality, and the Municipal Electric Utilities Co-operative of Nova Scotia), and the staff of the Nova Scotia Utility and Review Board, have reached agreement on the matters in issue in this Application;

AND WHEREAS this Agreement is subject to review and approval by the Nova Scotia Utility and Review Board;

THE UNDERSIGNED PARTIES ("the parties") HEREBY AGREE and respectfully request the Utility and Review Board ("UARB") to approve:

1. NSPI's 2007 test year revenue requirement is set at $1,159.5 million, with new rates effective April 1, 2007.

2. NSPI's 2007 forecasted fuel expense is set at $470 million, with the natural gas margin set at $47 million. In the event NSPI's actual natural gas margin does not achieve a level of $47 million, NSPI may defer for later recovery in rates any difference, down to $39 million, for a maximum deferral of $8 million.

3. The third year of the phase in of depreciation rates is deferred for recovery in the next general rate application.

4. All parties agree in principle that the UARB should adopt a Fuel Adjustment Mechanism ("FAM"). The parties request the UARB to establish a process that commences as soon as possible to establish a FAM. The parties will work constructively on the content or elements of a FAM. A FAM hearing will begin no later than July 15, 2007.

5. NSPI shall file with the UARB and the parties (subject to the usual undertakings regarding confidentiality), on or before October 31, 2007, an updated forecast for fuel and purchased power and other significant projected cost changes for 2008. Any of the parties may ask the UARB to consider whether there should be a proceeding to adjust rates for 2008.

6. Excess earnings by NSPI, if any, in 2007 and 2008 will be applied to the S21 unamortized balance.

7. NSPI's request for a deferral of first quarter 2007 fuel costs is withdrawn.

8. There are no further changes to NSPI's Application including: rate base and return on rate base, return on equity, OM&G, regulatory amortizations and income taxes.

9. NSPI's request for a true-up for the 2P-RTP is deferred to the December 1 annual review of the ELI 2P-RTP rate.

10. The UARB directive from the 2006 Rate Case regarding the study of NSPI's OM&G is not deemed to be completed by this Agreement.

11. The Revenue to Cost ratio methodology as described by Dr. Stutz at pages 15 and 16 of his December 20, 2006 Evidence will be adopted, except for modifications to incorporate a change to the unmetered rate class, for which the combined C3 weighting factor will be .82 for billing services and call centres.

12. Subject to paragraph 4, above, this agreement does not preclude NSPI or any of the parties from taking any positions in future regulatory proceedings.

(Exhibit N-48)

3.3 Variance From Original Application

[14] As noted above, on January 23, 2007, NSPI filed Exhibit N-49 which reflects the R/C ratios and corresponding rate increases by customer class as a result of the reduction in costs agreed to by NSPI under the terms of the Agreement. The rates in Exhibit N-49 differ from the original application as follows:

Original Application:

	R/C Ratio	% Revenue Increase	Proposed Revenue (million)
ABOVE-THE-LINE CLASSES			
Residential	99.1%	9.0%	$524.8
Commercial			
Small General	100.7%	7.3%	$30.2
General Demand	105.0%	3.5%	$252.8
Large General	99.1%	8.9%	$35.8
Total Commercial	**103.9%**	**4.4%**	**$318.8**
Industrial			
Small Industrial	101.3%	7.3%	$24.7
Medium Industrial	100.2%	7.3%	$50.2
Large Industrial	99.1%	8.1%	$74.5
ELIIR-2	95.0%	11.1%	$124.9
Total Industrial	**97.6%**	**9.3%**	**$274.3**
Other			
Municipal	99.1%	10.4%	$16.6
Unmetered	99.9%	(0.9)%	$24.2
Total Other	**99.6%**	**3.4%**	**$40.7**
Total Above-the-line classes	**100.0%**	**7.5%**	**$1,158.7**
Below-the-line		**4.3%**	**$19.5**
Exports		**0.0%**	**$8.5**
Miscellaneous		**3.5%**	**$10.8**
Total Revenue		**7.4%**	**$1,197.6**
Revenue Requirement		**0.0%**	**$1,197.6**
Revenue Shortfall			**$0.0**

(Exhibit N-1 p. 173)

Settlement Agreement:

	R/C Ratio	% Revenue Increase	Proposed Revenue (million)
ABOVE-THE-LINE CLASSES			
Residential	97.9%	4.8%	$504.8
Commercial			
Small General	101.2%	4.8%	$29.5
General Demand	107.1%	2.2%	$249.7
Large General	98.7%	4.8%	$34.4
Total Commercial	**105.5%**	**2.7%**	**$313.6**
Industrial			
Small Industrial	102.2%	4.8%	$24.1
Medium Industrial	101.3%	4.8%	$49.1
Large Industrial	100.0%	4.8%	$72.3
ELIIR-2 (1)	95.0%	2.7%	$117.9
Total Industrial	**98.1%**	**3.9%**	**$263.3**
Other			
Municipal	97.3%	4.8%	$15.7
Unmetered	100.0%	-2.9%	$23.7
Total Other	**98.9%**	**0.0%**	**$39.4**
Total Above-the-line classes	**100.0%**	**3.8%**	**$1,121.2**
Below-the-line		**2.5%**	**$19.2**
Exports		**0.0%**	**$8.5**
Miscellaneous		**1.8%**	**$10.6**
Total Revenue		**3.8%**	**$1,159.5**
Revenue Requirement		**0.0%**	**$1,159.5**
Revenue Shortfall			**$0.0**

(1) ELIIR-2 Increase as compared to December 2006 ELI-2P-RTP rate.
When compared to 2006 ELIIR rate, percent revenue increase is 4.9%

(Exhibit N-49)

3.4 Intervenors in Support of Settlement Agreement

[15] While the Settlement Agreement was not endorsed by all formal intervenors, the final Agreement represents a broad consensus among most of the parties to the proceeding.

[16] Two intervenors, the Consumer Advocate and SEB, indicated that there were conditions to their consent. John Merrick, Q.C., the Consumer Advocate charged with representing the interests of residential customers, made it clear to the Board at the hearing as to the conditions and understanding upon which his consent to the Settlement Agreement was obtained:

> MR. MERRICK
>
> Yes, Mr. Chair, I just want to make it clear on the record that while there is a provision in paragraph 4 relating to the development at some point of a FAM, it is agreed and understood that the reading of paragraph 4 of the minutes of settlement does not prevent any party from taking the position and presenting evidence that NSPI may not yet be ready for a FAM or that there are criteria that must be satisfied by NSPI to warrant the implementation of a FAM. I want the record to clearly show that it's the position of the Consumer Advocate at least that a FAM may not, in fact, be appropriate at this time but that we are prepared to enter into the discussions concerning one because it may be useful to look at what might be an appropriate FAM for this jurisdiction and to identify what circumstances need to come into existence to justify one. That's point number one. The second query I just want to raise for the Board is that we understand the operations review process that has begun will be continued and that that's not going to fall off the table. At some point we'd like to confirm what role or input we might have to that continuing process.
>
> (Transcript, January 22, 2007, pp. 18 - 19)

[17] George T.H. Cooper, Q.C., counsel for SEB, also explained that its consent to the Settlement Agreement was conditional. SEB requested direction from the Board regarding the risk of SEB being subject to retroactive costs resulting in a higher rate than that set out in Exhibit N-49. SEB also requested confirmation that agreement to pursue the possibility of a FAM would not preclude access to all relevant information upon request;

the presentation of evidence on behalf of SEB; and full opportunity to cross-examine and challenge NSPI's proposal and evidence in the same manner as would ordinarily occur during a general rate hearing. The Chair confirmed, and NSPI agreed, that should the Agreement be approved by the Board, any process to consider a FAM would be a full and thorough review as SEB described. In the matter raised by SEB with respect to the possibility of the Board approving retroactive rates, the Chair stated that:

> ... The Board doesn't have an application before it to order a true-up mechanism retroactively. However, on many previous occasions, the Board has indicated that pursuant to the provisions of the Public Utilities Act, the Board does not have the ability to make rates retroactively, and we have chosen on a number of occasions not to make rates retroactively. And indeed, that is consistent with a decision of the Court of Appeal re: City of Dartmouth, a 1976 N.S.J. No. 457, which I'm sure you're all familiar with, a decision of the then Chief Justice MacKeigan. So in the Board's view, it does not have, should an application come forward, the ability to make rates retroactively. I would also indicate that in the context of the 2 Part-RTP decision and the compliance mechanism that flowed from that, we declined to order a true-up and I thought made it fairly clear that we wanted to see how the rate worked for a year before we made any adjustments. It certainly wasn't the Board's intention that we would make retrospective adjustments, but indeed, adjustments on a go-forward basis have to be made. I don't have an application before me. I can't give you a ruling. Mr. Cooper, that's about the best I can say with respect to the issue of retroactive rates.
>
> (Transcript January 23, 2007, pp. 48 - 49)

[18] As a result, SEB confirmed its consent to the Settlement Agreement:

> ... we are signing the document on the understanding that Exhibit N-49 does in fact represent the final result here. And we've been advised by NSPI that this results in an ELIIR rate for 2007 of fifty-six dollars and fifty-five cents ($56.55). And it's on that basis that we're going forward.
>
> (Transcript January 23, 2007,p. 51)

3.5 Intervenors Objecting to Settlement Agreement

[19] Two of the intervenors appearing at the hearing did not support the Agreement. Claire McNeil, on behalf of the AEC and Brendan Haley, representing the EAC, were not part of the Settlement Agreement process since they had chosen not to

sign the confidentiality undertaking referred to earlier in this decision. An opportunity was provided for all parties to review Exhibit N-49 and, following that review, neither of the parties chose to support the Agreement. Ms. McNeil outlined the reasons for AEC's objection:

> ... Our position regarding the settlement agreement is that we had instructions to oppose any rate increase for low income residential consumers. And our position is that if a rate increase is ordered that we will be applying for a remedy with respect to a program for those consumers. And I think that it will be helpful at this juncture just to reiterate that this application by Nova Scotia Power would not be fully adopted until the constitutional and Human Rights violation is heard. And we've agreed that those issues as raised in this rate application will be adjourned, we're again saying that this rate application will not be fully decided until those are decided. And we are seeking a remedy as a result of those alleged violations and that we will be arguing that a remedy resulting from those should be retroactive. So I just wanted to point out that the agreement that has been reached between the other parties does not affect this aspect of the application and the distribution of the constitutional issues and any other remedies in our view. The Attorney General is in this rate case is opposing the matter of constitution violation and is represented by Ed Gores. And I believe Mr. McGrath who's here in his capacity is representing the Minister of Energy also has instructions from Mr. Gores with respect to this. So I just wanted to clarify that Board counsel has written indicating that the issues raised in relation to the constitutional and Human Rights challenge will be heard in a separate hearing process and that this was unchanged by the agreement. And that the separate hearing process will include the opportunity for evidence to be submitted from Nova Scotia Power as well as the expert for the Consumer Advocate, Nancy Brockway. And evidence from intervenors and the Attorney General of Nova Scotia. So the date has yet to be set. But it would be our position that this matter should be addressed prior to the fuel adjustment mechanism hearing process ... .
>
> (Transcript January 23, 2007, pp. 29-31)

[20] An opportunity was provided for intervenors who did not consent to the Settlement Agreement to cross-examine witnesses provided by NSPI with respect to issues relating to non-confidential information. The AEC and the EAC indicated to Board Counsel that neither wished to cross-examine witnesses in this proceeding. The Board advised all parties that written submissions could be filed by Friday, January 26, 2007, and that the hearing would conclude following presentations by the public at the evening session on January 24, 2007.

3.6 The Province

[21] Stephen McGrath, counsel for the Province, set out its position as follows:

> ... on behalf of the Nova Scotia Department of Energy, the department appreciates the efforts of the confidential intervenors who met to try to reach a resolution of the challenges that are faced by NSPI and all stakeholders from rising electric rates in the province. The department agrees that collective actions such as this are really in the best interest of NSPI and its ratepayers. Mr. Chair, had the resolution in this matter been unanimous the Department of Energy would have had no difficulty supporting the process and the agreement. However, the Department of Energy also recognizes the right and legitimate interest of parties who have not finalized the agreement, and in particular Stora and Bowater, and those non-confidential intervenors who have had little -- as of yet, little or no opportunity to review the arrangements, to consider their options and pursue them in this proceeding. For this reason, the Province will not be formally signing onto the agreement, although in light of the fairly broad consensus in the agreement of confidential stakeholders and all other parties who have filed evidence in this proceeding it is unlikely that the Province will be pursuing significant or any issues during the hearing.
>
> (Transcript January 22, 2007, pp. 12-13)

3.7 Findings

[22] The Board has carefully reviewed the terms of the Agreement and the comprehensive evidentiary record consisting of pre-filed testimony and responses to information requests. It has also considered the comments expressed to the Board by certain of the intervenors, particularly the Consumer Advocate, as to why they consent to the Settlement Agreement and why they believe approval of same is appropriate. In addition, the Board has also taken into consideration the issues raised in written submissions filed by a number of intervenors following the conclusion of the hearing.

[23] In general, the Board is not opposed to the concept of settlement agreements. To the contrary, the Board believes that working towards achieving consensus between NSPI and some, if not all, of its customers can prove to be a useful

exercise and is a laudable initiative. Recent amendments to the Board's Regulatory Rules facilitate settlement discussions and the appointment of a Consumer Advocate ensures residential customers are represented. Settlement agreements do not, however, diminish the Board's duty and obligation to ensure that the terms of any such agreement result in approval of only those costs which are fair, justifiable and prudently incurred by the Utility. Further, the Board must ensure that these costs result in customer rates that are just, reasonable and in the public interest. In addition, when deciding whether to approve a settlement agreement, the Board must be satisfied that the outstanding concerns of all intervenors are adequately considered by the Board and the terms and conditions under which they consent to a settlement agreement are honoured.

[24] The Settlement Agreement at hand changes NSPI's original application in a number of ways. The proposed revenue requirement, on which rates are ultimately based, has been reduced through a significant reduction in fuel costs; an increase in depreciation rates scheduled for 2007 has been deferred; R/C ratios have been adjusted; and the parties have agreed, in principle, to a FAM (which will be addressed later in this decision) with a process initiated to consider same at a Board hearing to begin no later than July 15, 2007.

[25] The Board finds that the Settlement Agreement warrants approval. There are three main reasons for approving the Agreement.

[26] Firstly, the major change from NSPI's original revenue requirement request relates to the cost of fuel. This issue was the primary focus of its application and, as a result, the concerns of most intervenors in this proceeding also focused on fuel costs. In

the Board's view, there is no dispute that fuel prices have been volatile and prices have generally increased. In fact, most Nova Scotians have experienced the impact of higher fuel prices on their own pocketbooks. The Board recognizes, as have the parties by consenting to the Agreement, that NSPI is also impacted by higher world prices for fuel. As a result, the question before the Board is not whether an increase in rates is required to address these costs. Rather, the issue is how large the increase should be. The terms of the Settlement Agreement reflect the fact that almost all of the parties, including the CA, have accepted that the rate increases which flow therefrom fairly reflect the cost increases experienced by NSPI.

[27] In view of the consent of the CA and most of the other formal intervenors; the recommendation of Dr. John Stutz, Board Counsel's Consultant with respect to NSPI's overall operation and rate structure, that the Settlement Agreement should be approved; the acceptance of the Settlement Agreement by Liberty, the fuel experts retained by Board Counsel who have thoroughly reviewed and audited NSPI's fuel procurement practices and supply contracts and continue to do so; and the Province's decision not to object to the Settlement Agreement, the Board has determined that the reduced cost of fuel in the 2007 test year from $498.7 million to $470 million is reasonable and justifiable.

[28] Secondly, in the Board's judgment, the intervenors' acceptance of a number of elements of NSPI's original application, as set out in Term 8 of the Settlement Agreement, produces a reasonable revenue requirement. Similarly, the agreed upon adjustments to non-fuel related costs, as set out in Terms 3, 6 and 10 of the Agreement, represent changes which are reasonable and acceptable to the Board. None of the

proposed adjustments, in the Board's opinion, are ill-considered and none are of a sufficient magnitude to put the Utility's financial position at risk which, in turn, could adversely affect ratepayers.

[29] Finally, the Board finds approval of the Settlement Agreement to be appropriate since it in no way relieves NSPI of the requirement to be accountable to the Board and the public. NSPI is responsible for ensuring that all of the costs of providing safe and adequate service to its customers are prudently incurred and are as low as reasonably possible. There are usually two processes in which NSPI must meet this test.

[30] Pursuant to s.35 of the *Act*, Board approval is required for every capital expenditure NSPI wishes to undertake that is in excess of $25,000. The Board carefully assesses these requests on the basis of the need for the expenditure; the reasonableness and transparency of the costs involved; and the resulting benefit to customers of NSPI as a result of the projects that have been proposed. The Board must be satisfied that NSPI has met this test before issuing its approval of capital expenditures. If the Board deems that a public process is appropriate for a specific proposal, it has the discretion to initiate one.

[31] NSPI must also meet this test in a general rate proceeding. Such a proceeding involves participation by all interested parties; the filing of evidence relating to all aspects of the Utility's costs including fuel; cross-examination of witnesses in an environment which can often be aggressive and adversarial; and, except when confidential information is being discussed, the proceeding is open to the general public.

[32] While approval of this Settlement Agreement sets NSPI's fuel costs for the 2007 test year at $470 million, it does not lessen NSPI's requirement to satisfy the Board that its fuel procurement policies and practices warrant approval of a FAM. While approval of the Settlement Agreement includes the Board agreeing to consider, in a separate proceeding, whether a FAM might be appropriate, the Board is not in any way diminishing the ability of intervenors to challenge NSPI's FAM proposal and fuel procurement practices. In effect, those challenges are simply being deferred to another proceeding which, in this case, is scheduled to occur before July 15, 2007. Similarly, as Mr. Merrick has requested, the ability of intervenors to review and challenge NSPI on other issues - the report on the costs and efficiencies of operational activities, along with other outstanding issues raised in the Board's March 10, 2006 rate decision (which are specifically addressed later in this decision), continues. The only real process change as a result of approving the Settlement Agreement is, that for 2007, these matters will be dealt with by the Board outside the context of a general rate case.

[33] It is also important to consider that both the AEC and the EAC, who were not parties to the Settlement Agreement, have not challenged the specifics of the Agreement. The AEC confirms that its objection is based on opposition, in principle, to any rate increase pending resolution of a constitutional and *Human Rights Act* challenge.

[34] Similarly, the EAC does not challenge the specific terms of the Settlement Agreement. Rather, its concerns appear to relate to the reliance by NSPI on fossil fuels to generate electricity and the need for NSPI to use Demand Side Management and renewable energy sources to reduce emissions and pollution from its generating facilities.

In the Board's view, EAC's concerns directly relate to the upcoming Integrated Resource Plan ("IRP") proceeding (which includes consideration of Demand Side Management and renewable energy sources) where the Board expects that the EAC will be an active and valuable participant.

[35] The Board notes the concerns raised by the Province, the NDP and the EAC that, by approving a FAM proceeding to occur by July 15, 2007, the IRP process, which will address NSPI's plans to meet environmental targets, may be further delayed. The Board wishes to make it clear to NSPI and the parties that the current timelines set out for the IRP process will not be changed as a result of the upcoming FAM proceeding. The IRP process will take precedence over the FAM hearing in the Board's regulatory calendar.

[36] For these reasons, the Board finds that approval of the Settlement Agreement is appropriate.

[37] There are two issues, however, that the Board believes should be addressed prior to the next proceeding. One relates to the timing of the Settlement Agreement. In future, if a settlement agreement is reached, all intervenors should have an opportunity to meet with NSPI and the other parties involved in the Agreement, in a session designed to review and explain its terms and impact prior to the commencement of the public hearing. In the Board's view, this is easy to accomplish as the start of a hearing could simply be adjourned until the opportunity for review by the parties was completed.

[38] In addition, the Board shares the concern expressed by several intervenors regarding the extent to which filings and evidence in Board proceedings are considered confidential. This precludes the public from viewing a significant volume of evidence;

results in much of the public hearing being held on an *in camera* basis; and is perceived by many as unfair and unwarranted. The Board believes that NSPI must make a concerted effort to ensure that only information which, without question, warrants filing on a confidential basis be designated as such.

4.0 FUEL ADJUSTMENT MECHANISM

[39] The Minutes of Settlement state:

> 4. All parties agree in principle that the UARB should adopt a Fuel Adjustment Mechanism ("FAM"). The parties request the UARB to establish a process that commences as soon as possible to establish a FAM. The parties will work constructively on the content or elements of a FAM. A FAM hearing will begin no later than July 15, 2007.
>
> (Exhibit N-48)

[40] The Board's latest comment with respect to a fuel adjustment mechanism (FAM) is in its March 10, 2006 Decision, P-882, where the Board stated as follows:

> [202] While the Board recognizes that NSPI's proposed deferral mechanism is not, strictly speaking, a fuel adjustment mechanism ("FAM"), its effect is similar, in some respects, in terms of its potential impact upon NSPI's proposed fuel budget.
>
> ...
>
> [204] In its March 31, 2005 decision, the Board refused to incorporate a FAM proposed by NSPI:
>
> > [131] The Board shares the views of the intervenors with respect to the FAM proposed by NSPI. The Board recognizes that FAMs exist in many other jurisdictions and can, potentially, be a positive and useful regulatory tool. However, in view of the Board's findings with respect to imprudence and inadequacies in NSPI's fuel procurement practices, it would be quite inappropriate to approve a FAM at this time. The Board does not believe it is in the public interest to transfer the risk of fuel price volatility to ratepayers when NSPI's ability to achieve the best possible fuel price is in question.
> >
> > [132] Further, the Board is of the view that transferring such risk from shareholders to ratepayers could diminish the incentive for NSPI to quickly and thoroughly improve its fuel procurement process. This is particularly the

> case since the FAM proposed by NSPI would transfer 100% of the risk to ratepayers. Accordingly, the Board rejects the proposed FAM. Further, in view of the Board's concerns in this area, should NSPI apply for approval of a FAM in future, the Board will order an independent audit of NSPI's overall progress and performance with respect to the necessary fuel procurement improvements. This audit would include, as recommended by Liberty, "... a more detailed examination..." of fuel and energy transactions and relationships with affiliates and would form part of the evidence the Board would consider in any future FAM application.
>
> (Board Decision, March 31, 2005, para. 131-132)

> [205] While the Board has concluded in this decision that NSPI has made significant improvements in its fuel procurement procedures, the Board still has reservations about incorporating, at this time, an adjustment mechanism with respect to NSPI's fuel budget. As noted above, there remain elements of the Company's Fuel Procurement Policies and Procedures Manual which require improvement, most notably as it relates to natural gas, and improving the transparency of its decision-making in relation to its fuel. In these circumstances, the Board is reluctant to vary from its current regulatory practice of setting the fuel budget.
>
> (2006 NSUARB 23, pp.108 - 109)

[41] In the last two years, Liberty has carried out extensive work with respect to a review of fuel procurement by NSPI and is currently completing an audit of affiliate transactions.

[42] In Liberty's direct evidence, starting at page 39, it provided an update with respect to its work:

> Q. PLEASE PROVIDE A DETAILED DISCUSSION OF NSPI'S PROGRESS IN IMPLEMENTING LIBERTY'S RECOMMENDATIONS FROM THE LAST CASE.
>
> A. Since the last case, NSPI has made good progress on implementing each of Liberty's recommendations. In reporting on its progress with respect to each recommendation/directive, NSPI adopted the numbers from our testimony. Those numbers are used in the discussion that ensues. Recommendations #8, #9, & #10 related to dollar adjustments and did not require liaison between Liberty and NSPI.
>
> Liberty believes that NSPI has completed action on the following recommendations:

- Recommendation #1 – Re-evaluation of Generating System (SO2 emissions).

  Liberty is satisfied that issues relating to re-evaluation of the generating system in terms of controlling SO2 emissions will be resolved through a robust Integrated Resource Plan process.

- Recommendation #6 – Tighten Controls on the Fuel Procurement Process.

  NSPI has sufficiently tightened its controls over the fuel procurement process.

  NSPI has very nearly completed action on the following recommendations:

- Recommendation #4 – Refinement of Internal Spreadsheet Model.

  NSPI is very close to completing necessary refinements in its internal spreadsheet model.

- Recommendation #5 – Refine the Fuel Procurement Policies and Procedures.

  NSPI has significantly improved its Fuel Procurement Policies and Procedures. NSPI is very close to completing the necessary changes to most procedures, but there remain marginal opportunities for improvement in the area of procurement of purchased power, and hedging procedures.

- Recommendation #7 – Build the Fuel Supply Portfolio.

  NSPI has made satisfactory progress in building its new fuel supply portfolio, and has achieved the commitment-type targets set forth in its Fuel Procurement Policies and Procedures, well in advance the Company's planned date of December 31, 2007.

  Significant further work remains for NSPI to complete on the following recommendation:

- Recommendation #3 – Procedures for the Procurement of Purchased Power.

  Liberty has not yet received a complete and revised Fuel Procurement Policies and Procedures Manual from NSPI. Liberty needs to review the entire manual in order to verify full compliance with Recommendations #3, #4, #5 and #7.

  The UARB also directed the conduct of an audit of NSPI's affiliate relationships. This audit is currently in progress. Liberty expects to provide a summary of its results at or before hearings in this proceeding. In addition to broader and non-fuel areas this audit will examine two fuel-related recommendations issues:

- Recommendation #11 – Sale of Excess Natural Gas.

- Recommendation #12 – Study of In-House Capability to Sell Excess Gas.

  There remains as well Recommendation #2 – Fuel Hedging Policies and Procedures. We can make no estimate of the timing of our assessment of NSPI's progress on that recommendation, because NSPI has yet to provide revised policies and procedures. The expected timing of that submission ("year-end 2006") may render it impracticable to address the subject by the time of hearings in this proceeding.

  (Exhibit N-14, pp. 39-41)

[43] A number of the outstanding items will need to be complete before a FAM hearing.

4.1 Findings

[44] The Board recognizes, as was noted in the 2005 decision, that FAM's exist in many other jurisdictions and operate satisfactorily. The Board has agreed to accept the Settlement Agreement and therefore has agreed to establish a process leading to a hearing to determine whether or not it is appropriate to adopt a FAM for NSPI. The Board wishes to make it clear that what it has agreed to do is establish a process and conduct a hearing: it has not agreed to implement a FAM. A decision on that point will, of course, be made at the conclusion of the process described in this decision.

[45] For the guidance of the parties, however, and without in any way prejudging the issue, in the Board's view there are several prerequisites that must be in place in order for the Board to consider the adoption of a FAM now or in the future:

1. an adequate and appropriate fuel procurement policy at NSPI in which the Board has confidence;

2. timely disclosure of complete and adequate information by NSPI so as to ensure confidence that the procurement policy is being appropriately administered;

3. disclosure and transparency with respect to the administration of the FAM;

4. a meaningful audit process under the administration of the Board.

[46] This list is not meant to be exhaustive.

[47] The pre-hearing process will be chaired by Board Consultant Dr. John Stutz, assisted as needed by Liberty and Board Staff. The process timeline follows. It is anticipated that the activity noted will occur during the week noted. For example, the Hearing Order will be issued during the week of February 5, 2007. The timeline will be contained in the Hearing Order and may be amended at the further direction of the Board.

PROPOSED TIMELINE

Date	Week No.	Actions & Activities
February 5	1	Hearing Order Issued
February 19	3	Workshop 1
March 5	5	Filing FAM Proposals by NSPI and Intervenors
March 12	6	Workshop 2
March 19 - April 9	7-10	Discussion
April 16	11	Workshop 3
April 30	13	Filing of Evidence
May 14	15	IR's Filed
June 4	18	IR Responses
June 18	20	Hearing Starts

[48] Dr. Stutz will provide direction on the topics to be discussed in the three workshops.

5.0 OPERATIONS REVIEW

[49] In its decision dated March 10, 2006, the Board ordered a review of NSPI's operations:

> The Board directs that an operations review be carried out on NSPI's operations. The review shall encompass a detailed examination of NSPI's organizational structure, its level of OM&G expenditures, and any other pertinent areas which may come to light, with a view to determining whether cost savings and operational efficiencies can be achieved. NSPI is directed to prepare the terms of reference for the operations review and submit them to the Board for approval by May 31, 2006. The terms of reference shall also set out the procedures for identifying and selecting the firm or person who will perform the operations review.
>
> (Schedule "C", Board Order dated April 12, 2006)

[50] In response to this direction, NSPI filed a report prepared by Accenture Inc. ("Accenture") on January 8, 2007, (the "Accenture Report" or the "Report"). The CA filed evidence dated January 22, 2007, prepared by Blue Ridge Consulting Services Inc., ("Blue Ridge") analyzing the Accenture Report. In a pre-hearing conference of December 7, 2006, the Board had ordered that the Accenture Report be filed in advance of the hearing so it would be available to the parties. In doing so the Board truncated the normal process whereby the Report would be filed with the Board and the Board would determine the future process with respect to consideration of the Report.

[51] The Board notes that Blue Ridge is of the view that the Report has little or no value.

[52] They conclude that:

- The Accenture report has virtually no value in meeting the objectives as set down by the UARB;
- The Accenture report relies entirely on benchmarking which does not satisfy the intent of UARB to develop specific areas and recommendations;
- Those who conducted the review appear to have limited practical utility review experience to make assessments and recommendations concerning the operational efficiency of NSPI;
- The consultant selection process was problematic in that it failed to properly emphasize consultant objectivity, and
- Since the UARB's objectives were totally disregarded or ignored right from the start and the report clearly fails to meet what the UARB intended, ratepayers gained no value from this review and should not bear the cost of this report.

(Consumer Advocate Direct Evidence, Exhibit N-54, p.16)

[53] Neither NSPI nor any other party has had an opportunity to cross-examine Blue Ridge with respect to its conclusions.

5.1 Findings

[54] The Board has determined that the process concerning the operations review will continue following this decision and that interested stakeholders will have an opportunity to participate - the CA already has. The Board is interested in soliciting views of parties to the rate case proceeding with respect to the appropriate course of action. Accordingly, the Board will provide an opportunity for input concerning the desirability of a further review of NSPI's operations as suggested by the CA or whether parties are satisfied that Accenture has met the Board's terms of reference.

[55] Before providing input, parties will be offered an opportunity to make information requests of Accenture and/or Blue Ridge, the firm retained by the CA.

[56] Assuming such a review may be costly, parties who support an additional or alternate review should provide input on the terms of reference for the review in their submissions.

[57] Based on the input received, the Board will make a determination as to how to proceed.

[58] The timeline will be as follows:

Information Requests to Accenture and/or Blue Ridge	On or Before Thursday, February 15, 2007
Responses by Accenture and Blue Ridge	On or Before Monday, March 5, 2007
Due Date for Submissions	Thursday, March 15, 2007.

6.0 COMPLIANCE WITH OUTSTANDING BOARD DIRECTIVES

[59] There remain outstanding a number of directives from the 2005 and 2006 rate decisions. The operations audit is dealt with in Section 5 of this decision. Other directives include the affiliate audit and finalizing the fuel recommendations made by Liberty. Directives with respect to DSM and load forecasting are being dealt with as part of the IRP process.

[60] NSPI is directed to continue work on satisfying outstanding directives. In particular, the affiliate audit and finalizing Liberty's Fuel recommendations must be completed as quickly as possible in light of the upcoming FAM process.

7.0 OTHER

7.1 Written and Oral Submissions from the Public

[61] In the advertised Notice of Public Hearing concerning NSPI's rate application and the rate increases proposed, the public were advised that they could file submissions with the Board outlining their views regarding NSPI's application. This aspect of the hearing process is intended to address the fact that it is neither practical nor possible for the Board to hold public sessions in every area of the province served by NSPI. In response to this notification, the Board received approximately forty submissions from the public, including presentations made at the evening session on January 24, 2007. It should be noted that most of the written submissions were received prior to the Settlement Agreement being filed.

[62] Many of the submissions expressed concerns relating to the adverse impact of another rate increase on customers, particularly those on fixed or low incomes. Some focused on the recent decline in fuel costs and questioned the validity of NSPI's position in this regard. Environmental concerns both of a general nature, as well as comments from residents living in proximity to generating stations; options to promote energy conservation; quality of service; and labour and human rights practices by companies supplying coal from South America to NSPI, were some of the issues which were raised.

[63] The Board takes the views of the public as expressed in these submissions, as well as its responsibility to protect the public interest, very seriously and has reviewed all of the material which was filed. The appointment of a Consumer Advocate to ensure

that the interests of residential customers are well represented at Board hearings also reflects the Board's concern in this regard.

[64] With respect to some of the public's concerns noted above, environmental issues will be included as part of the upcoming IRP process and a number of service issues are being addressed by NSPI following directives issued by the Board as a result of its power outage review. While the human rights concerns relating to South American coal suppliers may well be legitimate, this is not an issue over which the Board has regulatory jurisdiction.

[65] With respect to the public's objections to any form of rate increase, while no one ever wants to see increases in rates for electricity service, circumstances can occur which justify an increase in rates. For the reasons outlined in this decision, the Board has concluded that the rate increases which result from the Settlement Agreement are reasonable and justified.

[66] The Board wishes to convey its appreciation for the time, effort and interest shown by these individuals in expressing their views to the Board in this matter.

7.2 Constitutional and *Human Rights Act* Challenge

[67] The Board notes that Ms. McNeil, on behalf of the AEC, raised the issue of the pending hearing with respect to the constitutional question and alleged violation of the *Human Rights Act* by the Board, in its determination in a previous decision (NSUARB-NSPI-P-881) that it does not have the authority under the *Public Utilities Act* to establish a lower rate for service provided to low income customers.

[68] Board Counsel advised counsel for both AEC and the Province, in a letter dated December 12, 2006, that in the Board's view, this matter would more properly be the subject of a hearing later in the year and that the Board would schedule this hearing when necessary information requested from the parties was provided. This information has not yet been filed and as a result the hearing has not been set down.

7.3 Compliance Filing

[69] Further to the Board's acceptance of the Settlement Agreement, the Board requires that NSPI provide it and other parties with a Compliance Filing which sets out the revenue requirement; rates; regulations; specific R/C ratios; and corresponding rate increases for each class of customer resulting from the Settlement Agreement. The Compliance Filing must be filed with the Board and all parties by February 15, 2007. The Compliance Filing should reflect the Board's ruling in previous decisions which limits any increases in miscellaneous charges to the average rate increase approved by the Board, unless the resulting charge exceeds the cost of service delivery in which case the charge will be capped at the actual cost. The Board notes that concerns in this regard were raised by the AEC in its closing submission and resolved in a letter from NSPI dated January 31, 2007.

[70] The Compliance Filing should also include one copy of the Settlement Agreement showing all signatures of consenting parties. All parties to the proceeding will have seven (7) days (February 22, 2007) to make comments, following which the Board will issue an Order establishing new rates which will be effective April 1, 2007.

7.4 Compliance Process

[71] Item 12 on the Issues List was the Compliance Filing process. As indicated at the conclusion of the hearing, parties have until February 15, 2007, to make submissions on that matter following which the Board will issue a decision.

7.5 Future Filing Requirements

[72] Item 13 on the Final Issues List was "development of standard filing requirements and other changes such as timing of information request responses". Dr. Stutz, in his Direct Evidence (Exhibit N-12), stated as follows:

> Q. IN [IS] THERE ANY WAY TO AVOID OR AT LEAST MINIMIZE SUCH DEFICIENCIES IN THE FUTURE?
>
> A. Yes. I recommend that the Board direct Staff to work with NSPI and other interested parties, to develop standard filing requirements which NSPI will be required to meet when it files its evidence in any subsequent General Rate Proceeding. The requirements developed by Staff should be submitted to the Board within three months of the decision in this proceeding.
>
> (Exhibit N-12, pp. 22-23)

[73] The Board agrees with that recommendation and will so direct Staff.

7.6 Costs

[74] EAC has sought costs in this matter. NSPI has until February 15, 2007, to respond to EAC's request following which the Board will issue a decision.

[75] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 5th day of February, 2007.

Peter W. Gurnham

Margaret A.M. Shears

Kulvinder S. Dhillon

APPENDIX - A
FORMAL INTERVENORS

Affordable Energy Coalition Peggy Brown Laura Lannon Wayne MacNaughton Karan Whitman	Megan Leslie, Claire McNeil and Marc Dunning
Avon Valley et al. (Avon Valley Greenhouses Ltd.) (Canadian Salt Company Limited) (CKF Inc.) (Crown Fibre Tube Inc.) (Halifax Grain Elevator Limited) (High Liner Foods Incorporated) (Imperial Oil Limited) (J. D. Irving Ltd., Saw Mills Division) (Lafarge Canada Inc.) (Louisiana Pacific Canada Ltd.) (Maritime Paper Products Ltd.) (Michelin North America (Canada) Inc.) (Minas Basin Pulp & Power Company Ltd.) (Oxford Frozen Foods Limited) (Statia Terminals Canada)	Robert G. Grant, Q.C., Nancy G. Rubin and Mark Freeman
Barrington Wind Energy Limited	Erick Twohig
Denise Boulter	c/o Vince Calderhead, Nova Scotia Legal Aid
Canadian Manufacturers & Exporters	Ann E. Janega and Robert Patzelt, Q.C.
Cape Breton Regional Municipality	Michael MacKeigan
Consumer Advocate	John Merrick, Q.C., and William Mahody
Ecology Action Centre	Brendan Haley and Gerry Ternan
Halifax Regional Municipality	Mary Ellen Donovan, Martin C. Ward, Q.C., and Julian Boyle
Heritage Gas Limited	Jason Haynes

Dr. Larry Hughes, PhD	
Liberal Caucus Office (Nova Scotia)	Michel Samson and Ryan Grant
Mr. Duncan MacAdams	
Municipal Electric Utilities Co-operative of Nova Scotia	Don Regan and Albert Dominie
New Democratic Party Caucus Office (NDP)	Frank Corbett, MLA and Lorraine Glendenning
Province of Nova Scotia - Department of Energy	Stephen T. McGrath, Allan L. Crandlemire, Scott McCoombs and Richard Penny
Mr. Allan F. Smith	
Stora Enso Port Hawkesbury Limited and **Bowater Mersey Paper Company Limited ("SEB")**	George T. H. Cooper, Q.C., David S. MacDougall and James MacDuff

APPENDIX - B

APPEARANCES AT THE PUBLIC HEARING - EVENING SESSION

Name	On Behalf Of
Robert Cook (President/CEO) Peter Nestman (Coordinator of Member Relations)	Nova Scotia Association of Health Organizations
Doug Ferguson	On his own behalf
Yvette Michaud	Atlantic Region Solidarity Network
Blake McDonald, Delegate	United Church of Canada's Maritime Conference
Paul Chaisson, son of Bernie Chaisson, Boiler Cleaner, Seaboard and Lingan Plant in Cape Breton	On his own behalf
Mike Moeller	On his own behalf
Alasdair Sinclair	Face of Poverty Consultation
Karl Lange	Community and Family Services - The Salvation Army
Duncan MacAdams (Formal Intervenor)	On his own behalf
Allan F. Smith (Formal Intervenor)	On his own behalf
Laura Trowell, Trenton Hillside Environmental Watch Association and neighbor of the Trenton Plant	On her own behalf
Peter Boyles - Trenton Hillside Environmental Watch Association	On his own behalf