NOVA SCOTIA POWER
An Emera Company

December 6, 2006

Ms. Nancy McNeil
Regulatory Affairs Officer/Clerk
Nova Scotia Utility and Review Board
1601 Lower Water Street, 3rd Floor
Halifax, NS B3J 3S3

Re: NSPI – Application for General Rate Increase – P-886

Dear Ms. McNeil:

Having withdrawn the evidence filed on November 24th, 2006, NSPI anticipated the December 7 hearing would no longer be necessary. Your letter received at 12:30pm on December 5 indicated that the hearing would proceed in respect of matters that continue to require clarification/direction from the Board. Please accept this letter as the submission of NSPI in advance of the December 7 appearance.

December 7 Agenda

In light of the withdrawal of NSPI's November 24th evidence, it is not apparent what specific issues remain open for determination by the Board. It would be helpful to all participants if the Board were to identify the specific matters in issue on December 7, so as to bring focus to the discussions.

Requests of the Consumer Advocate

NSPI has registered its objection to the Consumer Advocate's request to add the issue of future fuel forecasts to the December 7 preliminary hearing. If the Consumer Advocate believes NSPI has been non-responsive in respect of any Information Requests, due process requires him to bring a specific application before the Board, and NSPI should be given a fair opportunity to consider and respond to his request. The Consumer Advocate has not provided any particulars about his concern, nor any substantive argument that can be addressed by NSPI.

Prior to raising his concern with the Board, the Consumer Advocate did not contact NSPI in writing or by telephone to indicate any concern with our responses to his IRs, nor did he file any Information Requests in the second round. In contrast, Board Counsel spoke directly with NSPI to seek the

disclosures that are apparently the subject of the Consumer Advocate's concern. Today NSPI will file responses to the second round of Information Requests, and the Company anticipates this filing provides information that is responsive to the Consumer Advocate's concerns.

NSPI requests that, before any ruling is to be made with respect to the Consumer Advocate's requests, he should be required to set out his requests specifically and NSPI should be given a reasonable opportunity to respond. NSPI seeks particulars of the concerns and the remedy requested by Mr. Merrick, and seeks to know the specific issue that will be determined by the Board. This is particularly important in light of the fact that NSPI has attempted to be responsive to the Board by responding to Board Counsel's request.

There appears to be two specific matters that are causing Intervenors to seek a delay in the hearing of NSPI's General Rate Increase Application – the fuel hedging work by Black & Veatch, and the OM&G review being completed by Accenture. NSPI will address each of these matters.

The Black & Veatch Work

In the 2006 Rate Case Decision the Board directed NSPI to work with Liberty to respond to certain fuel procurement recommendations made by Liberty. Recommendation #2 states:

> "NSPI should develop a more comprehensive set of fuel hedging policies and procedures that measure up to industry standards"

The recommendation does not require a report to be filed with the Board, nor does it establish a deadline for completion of the fuel hedging policies and procedures. NSPI consulted with Liberty in the Spring of 2006 about this recommendation (and all others). Liberty recommended that NSPI retain a consultant to assist in the necessary work and NSPI has retained Black & Veatch.

The Terms of Reference for the Black & Veatch work has been provided to all parties in the response to UARB IR-11 (copy attached). That response has also confirmed that the work will be completed by the end of 2006, and subsequently incorporated into the Fuel Policy and Procedures Manual. NSPI expects to work with Liberty to review and implement the Black & Veatch advice. The Board was previously advised of this schedule in NSPI's August 31 Status Report, and was therefore informed of this timeline and plan when the rate case schedule was established.

Based upon the input from Intervenors, there appears to be a misunderstanding about the results of the Black & Veatch work. There will not be a report produced for submission in the rate case. NSPI has not suggested a Black &

Veatch report will be created or filed, in this rate case or otherwise. The Terms of Reference indicate the objective of the work is to further refine NSPI's policies and procedures, which is an objective that is responsive to the Board directive and Liberty recommendation. The results of the Black & Veatch advice will eventually be reflected in the Fuel Policy and Procedures Manual.

Fuel hedging policies and procedures are, by their nature, focused on the future. The advice that NSPI will receive from Black & Veatch and Liberty in respect of developing a comprehensive set of fuel hedging policies and procedures will not affect the 2007 test year. There is no reason why this information and work would need to delay the hearing of NSPI's request for a general rate increase, regardless of whether a report is the end product of the work. In any event, the Board was informed of the timing of Black & Veatch work at the time the rate case schedule was established.

Therefore, NSPI respectfully submits that this issue provides no reason to delay the hearing of NSPI's general rate increase request.

Accenture OM&G Study

In the 2006 Rate Case Decision the Board directed NSPI to carry out an operations review, by directing NSPI to "prepare the terms of reference for the operations review and submit them to the Board for approval by May 31, 2006." As NSPI explained in its response to UARB IR-33 (copy attached) the proposed Terms of Reference were submitted to the Board on May 31 as directed, and a response was received on July 21, 2006. Given this delay, the consultant was no longer immediately available to NSPI. NSPI has made every effort to complete and file this report with the Board in a timely manner.

On October 27, 2006 the Board gave direction to NSPI that the Company "have this work completed prior to the commencement of the 2007 rate hearing on January 22, 2007." NSPI is following this directive and the report will be filed with the Board as soon as possible and in any event prior to the commencement of the hearing.

NSPI notes that the Terms of Reference for the OM&G review have been provided in response to CA IR-38. The qualifications of the consultant, Accenture, have been provided in response to CA IR-40. A copy of a Q1 2006 Accenture report on NSPI operating costs was provided in response to CA IR-45. Many other IR responses have provided additional detail about NSPI OM&G costs. Intervenors have the information needed to respond to the matters on the Issues List in this general rate increase application.

Despite the concerns expressed in the December 5 letters from Intervenors about the OM&G review requiring a delay in the hearing:

- No Intervenor has previously expressed a concern about when the OM&G study would be filed with the Board
- No Intervenor expressed concern after receiving (and presumably reviewing) NSPI's Direct Evidence filed October 10, in which NSPI explained the status of the review on pages 72 and 73 of its Direct Evidence, noting, "This review is anticipated to be completed during 2007"
- No Intervenor objected to the Board's schedule about this particular matter when the schedule was released on October 16
- No Intervenor raised this matter when commenting on the preliminary issues list, even though the preliminary list included both compliance with Board directives, and OM&G costs
- No objection was made by any Intervenor until Mr. Cooper's letter on November 29, and
- Not one Information Request was posed in the second round of Information Requests about the OM&G study or the above noted material provided in response to first round Information Requests, by any Intervenor or the Board staff.

The Board was informed by the Direct Evidence that the review would not be available until 2007, and therefore had this information at the time the Application schedule was established. NSPI understands that the Board has already directed that the OM&G review be filed prior to the hearing. NSPI respectfully submits that the OM&G review provides no basis for delay of this hearing.

Other Unspecified Concerns

The letters from Intervenors filed on December 5 raised a number of general concerns about NSPI's application for a general rate increase. None of these concerns raise specific matters in a context capable of response by NSPI or determination by the Board. The Board Rules and processes provide an avenue for Intervenors to raise specific complaints, whether they are about the complexity of the proceeding, the adequacy of a response to an Information Request or the redaction of confidential information (all mentioned by CME, a Confidential Intervenor).

Delay and Prejudice

Delay in the pre-hearing processes in a general rate increase application works to the advantage of Intervenors, and to the disadvantage of only NSPI. Intervenors have an interest in delay that extends beyond process or fairness concerns, because delay in the process will delay the outcome, and thereby delay any eventual rate increase.

In contrast, a delay in the outcome for NSPI causes serious harm to the Company. Delay in the outcome means the inability of NSPI to recover legitimately incurred costs, unless a deferral of those costs is approved in advance. Based upon the average monthly revenue requirement as filed, the prejudice to NPSI could exceed $6.75 million for each month of delay, depending on the Board's final decision on the application. NSPI urges the Board to consider the financial prejudice to NSPI as it reflects upon the requests of Intervenors, and consider the negative effect on NSPI's overall financial condition.

Summary

At the time of writing, NSPI is not aware of the specific matter being placed in issue by the Consumer Advocate, and notes that IR responses have and will respond to the information he appears to seek. Regardless, NSPI objects to this issue being determined by the Board without NSPI having been provided clear notice and a fair opportunity to respond.

There are only two specific matters raised by Intervenors as reasons for delay of the January 22 hearing. Both items, and the schedule for their completion, were known to the Board at the time the rate case schedule was established. The Black & Veatch work will not result in a report or evidence in the rate case. NSPI has already received direction from the Board on the completion of the Accenture report, and the schedule will be met. Neither of these items received objections from any Intervenor, despite many opportunities to do so, until SEB's letter of November 29 (and subsequently December 5, for others). Neither of these items provides a valid reason to delay the hearing, nor have any other valid reasons been presented.

Finally, NSPI urges the Board to consider and weigh the prejudice of delay to NSPI and the financial condition of the Company. Delay is a risk that NSPI cannot accept nor afford.

All of which is respectfully submitted,

Rene Gallant
Regulatory Counsel

cc: Anne Marie Curtis, P.Eng.
Bruce Outhouse, Q.C.
All Intervenors

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF: The *Public Utilities Act,* R.S.N.S. 1989, c.380 as amended

IN THE MATTER OF: An Application by Nova Scotia Power Incorporated for Approval of Certain Revisions to its Rates, Charges and Regulations

RESPONSE TO INFORMATION REQUEST

TO: NSPI

FROM: UARB

Question IR-11: **Reference Page 11, lines 7-8**

a. Provide the Terms of Reference for the Black and Veach work.

b. What is the expected completion date of this work and when will the results be incorporated in the Fuel Procurement Policies and Procedures Manual.

c. Will Liberty be provided the results of the Black and Veatch work and given an opportunity to comment before it is incorporated in the Manual?

Response IR-11:

a. Please refer to Attachment 1.

b. The work is scheduled to be complete by the end of 2006. The updating of the Fuel Procurement Policies and Procedures Manual is scheduled for early 2007.

c. Yes.

OBJECTIVE

To further refine NSPI's fuel hedging policies, procedures, governance and documentation, to ensure that they are consistent with industry standards and best practices.

SCOPE

The consultant will address the missing elements in the NSPI hedging program outlined by the UARB in its decision. The missing elements listed are:

- A clear, concise definition of hedging objectives
- Statement of specific goals in terms of volumes of fuel to be hedged and expected price results
- Description of the balance among obtaining low cost energy, minimizing price volatility, and maintaining reliability of supply
- Listing and description of permissible and precluded techniques and instruments
- Clear discussion, definition, and limits associated with physical versus financial hedges
- Identification of the required tools and models to operate an effective program
- Identification of required staff capabilities
- Clear, comprehensive statement of internal and UARB reporting requirements
- Specification of control mechanisms, approval authorities, and documentation requirements
- Quantification of allowable hedging program costs, limits, and treatment.

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RESPONSE TO INFORMATION REQUEST

TO: NSPI

FROM: UARB

Question IR-33: **Reference Page 72-73**

Board Directive No. 10 of the Board Order of April 12, 2006 (P-882) directs NSPI to carry out the operations review. The Board approved the Terms of Reference on July 21, 2006. Why is this study scheduled for 2007 rather than the second half of 2006?

Response IR-33: In the Board Order of April 12, 2006 NSPI was directed to "prepare the terms of reference for the operations review and submit them to the Board for approval by May 31, 2006." Neither the Board's Decision nor the Board Order specified a date for completion of the operations review.

NSPI submitted draft Terms of Reference for this review by letter dated May 31, 2006, as directed by the Board. The key deliverables for the operations review were scheduled to be completed by July 31, 2006, according to the Terms of Reference as prepared by NSPI. On July 21, 2006 the Board responded to NSPI, approving the selected consultant and providing a number of revisions to the Terms of Reference. In regard to the completion date of the review, the Board only commented, "In addition, the Board notes that the July 31, 2006 date for the deliverables may have to be changed."

Given the delay in commencing the operations review, the consultant was not immediately available to NSPI, but anticipated being able to complete the review not later than the first quarter of 2007. Once this rate application was filed on October 10, 2006, NSPI re-engaged the consultant in order to have the report ready for the Board for this proceeding. The study will be completed and filed with the Board as soon as possible and in any event prior to the commencement of the hearing in this application.

Nova Scotia Utility and Review Board

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October 27, 2006

By Regular Mail and By Fax: 428-6990
Mr. Ralph Tedesco
President and Chief Executive Officer
Nova Scotia Power Inc.
P.O. Box 910, Scotia Square
Halifax, NS B3J 2W5

Dear Mr. Tedesco:

NSPI - Outstanding Matters - Operations Review - P-882

In its rate decision dated March 10, 2006, the Board stated the following with respect to a review of NSPI's structure and its OM&G expenses:

> [433] Following its review of the evidence in this hearing, the Board continues to be concerned about the magnitude of the increase sought by NSPI for OM&G expenses, particularly since it accompanies NSPI's request for a very significant rate increase. In its application, NSPI is seeking an increase of $27.8 million in OM&G costs for the 2006 test year. This represents a 15.3% increase over the 2005 Compliance Filing. Moreover, OM&G spending is not insignificant, representing 24.5% of the total projected cost of operations.
>
> [434] While the Board accepts NSPI's evidence that the Company's management endeavours to contain line expense amounts, it is not persuaded that NSPI has taken sufficient steps to critically examine its entire operation to determine the most efficient use of its resources. In the opinion of the Board, any large entity should regularly undertake such a review, without reference to, or reliance upon, traditional or existing operational groups. Such a review should focus on developing the most efficient organizational structure as the Utility moves into the future.
>
> [435] Accordingly, 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.
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> (Board Decision, NSUARB 23, March10, 2006, pp. 207-208)

The proposed terms of reference for the operations review were submitted by NSPI to the Board on May 31, 2006. In the accompanying letter of enclosure, NSPI indicated that, prior to the Board's directive regarding the operations review, and subsequent to the discussion at the hearing concerning this issue, NSPI had engaged Accenture to carry out the operations review.

After reviewing the proposed terms of reference, and after receiving additional information from NSPI, the Board approved the terms of reference on July 21, 2006. The Board also indicated that, given the circumstances, it had no objection to NSPI's engagement of Accenture to carry out the mandate.

In a recent discussion which George Smith, of the Board's staff, had with Eric Ferguson, NSPI's Manager, Regulatory Affairs, it was indicated that the operations review would not be commencing until the first quarter of 2007.

The Board is very concerned over the delay in the commencement of this work. The issue of operating expenses was covered extensively during the hearing, and in fact, has been discussed in prior rate hearings. Given that NSPI is aware of the significant impact which OM&G expenses have on the revenue requirement, and given that NSPI has now filed a rate application, it seems surprising to the Board that NSPI has not proceeded with the operations review with much greater dispatch.

Accordingly, the Board suggests that NSPI arrange to have this work completed prior to the commencement of the 2007 rate hearing on January 22, 2007. Failure to have this work completed prior to this date could mean that the Board will not have sufficient information to properly assess the application. Such a situation could well be cause for a deferral of the hearing itself.

Yours truly

Nancy McNeil
Regulatory Affairs Officer/Clerk

cc: S. Bruce Outhouse, Q.C., Board Counsel Fax: 429-7347