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4 December 2006

Ms. Nancy McNeil
Regulatory Affairs Officer
Nova Scotia Utility and Review Board
1601 Upper Water Street, Suite 300
Halifax N.S.B3J 3S3

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Nova Scotia
Utility and Review Board

Dear Ms. McNeil,

Re: NSPI 2007 Rate Application
NSUARB - NSPI - P-886
Late Filed Evidence

Further to the submission made by George Cooper QC on behalf of SEB dated November 29, 2006, the Board has invited comments in advance of the December 7th, 2006 hearing in respect of the late filing of evidence by NSPI on November 24, 2006 . The late filing of evidence raises a general and specific due process issue. The late filing of this evidence places the intervenors in a difficult position in that it follows the filing of IRs. Not only does this preclude the filing of IRs on the late filed evidence, but also it interferes with the orderly response to the issues raised by the application.

The late filing of this evidence and the yet to be filed evidence on the Operational Review and the Black and Veatch review of NSPI's fuel hedging policy raises the question of whether the application was brought prematurely. The failure to follow an orderly process and await the completion of reports and revenue requirement filing, prejudices the intervenors and leaves them in a position where the case to which they have to respond continues to be a moving target. This leaves the intervenors unable to define the case that has to be met, and to determine what expert evidence is necessary to meet that case , and to obtain that evidence. The failure to know the case to be met, constitutes a denial of due process.

HRM's supports SEB request to extend the current hearing schedule and delay the commencement of the hearing on January 22nd, 2007. HRM asks he Board to consider delaying the hearing until such time as the Board is satisfied that all filings, including NSPI's direct evidence together with responsive IRRs, are complete, the intervenors have had an opportunity to file any additional IRs, and an opportunity to consult with appropriate experts as needed.

NSPI had to be aware that the intervenors would have an issue with respect to this late filed evidence. Rather than ask the UARB for leave to file late, NSPI elected to file the evidence and await the inevitable application for due process around the late filed evidence. As indicated in the Cooper letter, NSPI was well aware at the date of the filing of its Application that the ELIIR-2 customers had the option of choosing the ELI 2P-RTP rate, and in fact it was this type of rate form that the customers had been advocating throughout the ELIIR-2 proceeding. Therefore this proceeding had to have been foreseeable. Responding to NSPI applications is becoming a very time consuming and expensive process. If NSPI elects to file rate applications before it is ready to file all of its evidence, or elects to take a piecemeal approach with respect to the filing of its evidence, then it should bear the additional cost and unnecessary expense to which the parties are put in addressing these issues as they arise.

Yours truly,

M.E.Donovan
Director, Legal Services

cc. René Gallant
S. Bruce Outhouse QC
Intervenors