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NSPI-P-886 SBO(email)

NOVA SCOTIA UTILITY AND REVIEW BOARD

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

- and -

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

2007 Rate Application
Nova Scotia Power Inc

Closing Submissions on behalf of
Affordable Energy Coalition

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JAN 30 2007
Nova Scotia Utility and Review Board

1. This Rate Application was slated for two weeks of hearings on various issues which were determined by the Board in November, 2006. Included in this list of issues were items such as fuel related issues and OM&G costs. Also included in the list was an issue raised by the Affordable Energy Coalition et al that the Board should determine "whether Sections 44 and 67(1) of the *Public Utilities Act* as interpreted by the Board contravene the *Human Rights Act* (Nova Scotia) and/or are contrary to the *Canadian Charter of Rights and Freedoms*."

2. The timing of when to hear the Constitutional and Human Rights issue was discussed through correspondence among the AEC, Nova Scotia Legal Aid, Board Counsel and Counsel for the Attorney General's office. Confirmed in a letter from Board Counsel dated December 12, 2006, it was decided that the Constitutional and Human Rights issues would be heard by way of a separate schedule, and determined by a separate decision of the Board, but that the issue would continue to be a part of the 2007 Rate Application.

3. These submissions are intended to address the specific issues raised by the Settlement Agreement, in the form of a residential rate increase, and an increase in miscellaneous charges and the proposal of a Fuel Adjustment Mechanism. It understood that this will not limit or restrict the further proceedings with respect to the Constitutional and Human Rights issues. With this background in mind, the Affordable Energy Coalition responds to the Settlement Agreement signed by NSPI and several intervenors.

Rate Increase: 4.8% to the Residential Class

4. The Affordable Energy Coalition does not support the settlement agreement as it is submitted to the Board. We understand that the rationale offered for excluding the AEC from settlement negotiations was that its representatives did not sign confidentiality agreements. It is our position that the interests of low income residential consumers were not represented at these Settlement Agreement meetings.

5. Most importantly, the Settlement Agreement would see residential rates increase by 4.8%. Our clients cannot support such an increase. It is our position that electricity rates impact Nova Scotians disproportionately, and that access to electricity services is threatened by the current rates. It is clear that we could not support a settlement agreement that creates even greater burden on low income residential consumers.

6. At the Public Session on the evening of January 24 the Board heard from Paul Chiasson who described his struggles with heating his apartment and how $100 of his $820 per month income goes to his electricity bill. Mr. Chiasson's story is not an isolated case. Low income Nova Scotians cannot afford the rates as they are now, and an increase of almost 5% to residential rates can't be absorbed by the budgets of low income households.

Fuel Adjustment Mechanism

7. The Affordable Energy Coalition respectfully requests that the Board not agree with the development of a Fuel Adjustment Mechanism (FAM), in principle, as a part of the Settlement Agreement. The AEC has concerns that a FAM would reduce the regulatory oversight of the Board concerning rates, and would result in fewer opportunities to raise regulatory issues before the Board.

8. The AEC is also concerned that a FAM process would take priority over other pressing issues still before the Board. In particular, the Affordable Energy Coalition needs to have the Constitutional and Human Rights issues decided before we can take an informed position on a Fuel Adjustment Mechanism.

9. Further, the FAM issue should not be heard before any determinations on Demand Side Management (DSM) and, specifically, low income DSM are made. We respectfully submit that holding a Fuel Adjustment Mechanism hearing in July is premature, and that other cost-reducing options such as DSM should be explored before any FAM is set. We support the submissions of the Ecology Action Centre on this point.

Settlement Agreement Process

10. The Affordable Energy Coalition learned of the proposed Settlement Agreement on the afternoon of January 21. Our first opportunity to review this Agreement was the morning of January 22, the first day scheduled for hearings. The AEC *et al* were not parties to the drafting of this settlement agreement, and our interests were not represented in this document.

11. The AEC supports the submissions of the NDP Caucus with regard to the settlement process. The lack of public input in this process ensures that the interests of only certain groups are recognized, and without complete transparency within the process neither formal intervenors nor the public can be certain to have their positions heard. We support the submission that guidelines are needed to better define the process and the roles played in presenting such settlements to the Board.

Miscellaneous Charges

12. While this item of NSPI's application was not dealt with formally in the proposed "Settlement Agreement" in response to questions from representatives of the Affordable Energy Coalition, NSPI provided an updated proposal concerning increases to these charges on January 23, 2007, which we assume has been provided to the Board.

13. The Miscellaneous charges, imposed pursuant to Regulation 7, represent a significant burden to many low income customers of NSPI. These charges are unusual in that the Board allows the company to recover costs through levies on individual consumers, rather than paying for them out of the rate base as a whole.

14. The Affordable Energy Coalition voices concern over the excalating costs to payment troubled customers resulting from NSPI's multiple uses of the registered letter

and other notices and urges the Board to impose a cap on these charges. In addition, the AEC urges rejection of the NSPI proposal to increase certain miscellaneous fees. Specifically, we urge rejection of:

a. Proposed increases in the connection/reconnection charge;
b. Proposed increase in the Returned Cheque Charge and
c. Proposed increases in collection charges (doorknob notice)

15. The purpose of segregating a fee, of course, is to allocate the designated costs to the customers that cause NSPI to incur those costs. NSPI's proposal to increase the fees identified above run afoul of this basic principle of cost causation. The violation of this principle of cost causation is made even more egregious by the fact that the non-cost-based fees fall disproportionately on low-income customers who cannot afford the basic charges imposed by the NSPI, let alone additional charges that bear no relationship to cost-causation principles.

Proposed Increases in Excess of Proposed General Rate Increase of 3.8%

16. NSPI's proposed increases do not match the general rate increase of 3.8%. Most of the charges at Regulation 7 deal with company actions in response to arrears in payment, starting with the "Doorknob Notice" (7.1(e)), the "Registered Letter" at (7.1(e)) and the Returned Cheque Charge (7.1(g)). The connection/reconnection charge also has a greater impact on individuals who change residences, as is often the case with tenants without security of tenure. As details concerning the rationale for these increases was not provided, it is unclear the basis of the January 23 proposal.

17. From the figures provided by NSPI on January 23, 2007 it appears that the percentage increase in these charges currently sought by NSPI are as follows:

a. Connection/reconnection during regular hours: 4.6%;
b. Connection/reconnection after hours: 3.8%;
c. Doorknob Notice: 6.3%;
d. Registered Letter (No increase);
e. Returned cheque charge: 5.6%

18. Reference to Appendix I of the original NSPI Application in this matter shows that NSPI's intention was to propose an increase equivalent to the general rate increase for above the line customers. No calculations were provided concerning the actual costs of these charges and we would urge the Board to maintain these charges at current rates.

The Connection/Reconnection Charge

19. The Company proposes to increase its connection/reconnection charges to residential customers. According to the Company's proposal:

a. The connection/reconnection charge for "normal working hours" would increase from $21 to $22; a 4.6% increase and;
b. The connection/reconnection charge for "after normal working hours" would increase from the $78 to the proposed $81; a 3.8% increase.

20. We continue to object to NSPI's basic assumptions, as detailed in their original Application, supporting proposed increases in these charges and specifically NSPI's inclusion of:

a. Employee benefits in the labour cost;
b. Administrative overhead;
c. Vehicle overhead.

21. Overhead expenses, both vehicle overhead and administrative overhead, are not expenses that a customer experiencing a connection or reconnection causes the Company to incur. For example, the administrative overhead includes costs such as office space, headquarters space, company management, supervision, and the like. These basic overhead costs are incurred by the Company irrespective of the number of connections or reconnections engaged in by the Company. The Company does not have a *larger* headquarters building or more senior management or more vehicles or more total overhead if a customer experiences a connection or reconnection of service. These costs are basic costs of doing business and should be paid by the general ratepayer base. They are certainly not caused by a customer that is experiencing a connection or reconnection of service.

The "after hours" charge

22. For all the reasons discussed above, the AEC opposes adding fringe benefits, an administrative overhead and vehicle overhead, to the after-hours connection/reconnection charge.

23. The AEC further opposes adding a component to the "after hours" charge to specifically compensate the Company for its "work continuation" costs (see Appendix I). As discussed in more detail above, the purpose of a segregated charge is to assign the costs of providing specific services to the customers who cause the Company to incur those costs. However, the "services" involved with providing customer collections (and customer service) activities is a fluid concept. There are not staff dedicated exclusively to the activity of performing connections and reconnections. Customer Service Field Representatives perform a wide variety of functions. When not performing one function, they are assigned to a different activity that needs to be performed for the Company.

24. Assigning the costs of service connections/reconnections to that specific activity, when that activity happens to be the one that falls into the time-frame falling after normal working hours has no logic or merit to it. In a work continuation setting, the fact that the connection/reconnection might occur "after normal working hours" is no more caused by the last activity to be done in that day than it is caused by the first activity to be done in that day (or the middle activity). The fact that it is the service connection/reconnection that falls into the after-hours slot is the result of a scheduling decision. It is not a function of the need to perform that connection/reconnection.

25. The fact that some customer service activities are required to be performed after hours in a work continuation setting is the result of the totality of customer service activities that are required to be performed, not a function of the specific activity that

happens to be scheduled after hours. Since there is no cost-causation associated with the specific activity of service connections/reconnections, this activity should not be charged with the costs of work continuation after hours.

Doorknob Notices

26. The Company proposes to increase its basic collection charge (for a doorknob notice) to residential customers from $15 to $16. NSPI urges rejection of the increase and reconsideration of the Regulation which allows duplication of services and charges to individual customers.

> **The doorknob notice:** NSPI is seeking the equivalent of a 6.3% increase in this charge. For all the reasons stated above the AEC objects to the inclusion of fringe benefits, administrative and vehicle overhead in these charges.
>
> **The registered letter:** The AEC does oppose adding an administrative overhead, to the collection charge for a registered letter. The AEC's opposition to adding these additional costs to the collection charge is the same as its opposition to the same charges for the connection/reconnection charge as explained above.

Excalating Costs to Consumers with Payment Difficulties

27. In addition, and more importantly, the AEC notes with concern the large number of repeat notices and letters and the rising total cost to consumers having payment difficulties.

28. In AEC IR-9(k) (Exhibit N-2b) the Company disclosed that the cost of a disconnection notice can vary, depending on the method the Company uses to deliver the notice. NSPI pointed out that the cost of reconnection is $21, which will be added to the cost of a registered letter ($8.00) or a final notice delivered by a field staff worker ($15.00).

29. In AEC IR-9(a) NSPI responded that 2,838 disconnection to residential service occurred in 2005. AEC IR-9(l) indicates that 3,774 final notices were delivered by field staff, and AEC IR-9(m) indicates that 5,128 notices were delivered by registered mail. In total, 6,064 more notices were delivered than there were disconnections.

30. In AEC IR-11 NSPI disclosed that 288 customers received more than one visit for the purpose of delivering a final notice of disconnection in 2205. In 2006, as of October 31, 318 notices were delivered. In 2004, according to this same IR, the maximum number of visits to a domestic customer for the purpose of delivering a final notice of disconnection was estimated to be 4.

31. The Affordable Energy Coalition applauds NSPI's attempts to ensure that a residential customer has sufficient notice of a disconnection. However, the unintended effect of making multiple attempts to ensure sufficient notice is that a customer is

charged for each attempt. As Ms. Nancy Brockway testified in the 2005 rate hearing, often a customer whose electricity service is disconnected finds themselves in this position because they cannot afford to pay the bill. In attempting to ensure proper notice the Company is inadvertently adding even more charges to an already unaffordable bill.

32. It is the position of the AEC that multiple charges for delivery of a disconnection notice should be prohibited. A domestic customer should only be charged once, if at all, for such a notice.

All of which is respectfully submitted.

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For the Affordable Energy Coalition