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OUR FILE:

VIA EMAIL

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

Dear Ms. Friis:

RE: M06733 An Application by EfficiencyOne for Approval of a Supply Agreement for Electricity Efficiency and Conservation Activities between EfficiencyOne and Nova Scotia Power Inc., for the term 2016-2018, pursuant to the Public Utilities Act

These are the closing submissions on behalf of the Small Business Advocate ("SBA").

The SBA is a signatory to the Terms of Consensus signed by EfficiencyOne ("EOne"), the Consumer Advocate ("CA"), the SBA, the Affordable Energy Coalition ("AEC") and the Ecology Action Centre ("EAC"") (Exhibit E61) ("Monetary Consensus") as well as the Consensus Settlement Agreement signed by EOne, NS Power, the CA, the SBA, the Industrial Group ("IG"), AEC and EAC (Exhibit E62) ("Non- Monetary Consensus"). Both Terms of Consensus documents largely address the issues raised by the SBA's consultant, John Athas.

DSM Investment Level

As outlined in the SBA's Opening Statement, Nova Scotia small businesses are primarily concerned with affordability. While the SBA understands the value of Demand Side Management ("DSM") programs in Nova Scotia, the benefit of those programs needs to be balanced with consideration of the cost to ratepayers. The SBA is pleased that the Monetary Consensus proposes a revised DSM Investment Level for activities from 2016-2018 of $113.5 million.[1] In its testimony EOne confirms they are committed to providing the same level of DSM programs within the $113.5 million budget. In his evidence, Mr. MacDonald stated:

[1] Exhibit 61, Monetary Terms of Consensus, para. 2.

"So what we've committed to in the agreement that we've put forward is to achieve the same level of energy and demand savings at the $113.5 million figure over the three years...."[2]

The SBA is also aligned with EOne's position that the $8.4 million projected over-recovery should be credited to the 2016 projected spend in order to further reduce the cost of DSM programs to ratepayers.[3]

Reserve Fund

The Non- Monetary Consensus outlines that in lieu of a reserve fund, EOne will have the ability to apply to the Board for any recovery of funds needed to address extraordinary or unforeseen circumstances outside of normal operations. The Non-Monetary Consensus also provides that all parties are able to challenge the merits of any claim for recovery. Finally, there is confirmation that any surplus will be returned to NS Power for the benefit of ratepayers as determined by the Board.[4]

The SBA is satisfied with the arrangement as outlined and is supportive of this alternative arrangement rather than the reserve fund originally proposed. The SBA however, wants to be clear that it is anticipated that EOne will operate within the budget allocated by the Board and will only seek an application to the Board in very limited circumstances. In her testimony, Ms. Vincent for EOne, reiterated that only those unforeseen expenses outside of regular operations would result in an application to the Board:

> **MR. DHILLON:** Yes, I guess one question on E-62 which is signed by most of the parties. It's the Section 2, the Establishment of Reserve Fund. And Item A it talks about coming back to the Board for extra funds in case of extraordinary circumstances. Other than ITC recovery issue, do you see any other major issues coming under this clause?
>
> **MS. VINCENT:** Other examples would be similar or the same ones as identified in our evidence in the original request or proposal for a reserve fund. So those kind of extraordinary or unforeseen circumstances that would not be a result of regular operations...[5]

In rebuttal evidence, EOne also highlights the point being made by Ms. Vincent in her testimony.

> ...The creation of the fund is intended to provide financial protection to the organization against unforeseen or unexpected risks, not normal operational risks that can be effectively managed...[6]

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[2] June 16, 2015, Testimony EOne, page 567, lines 6-9.
[3] June 16, 2015, Testimony EfficiencyOne, page 560-561.
[4] Exhibit 62 Non-Monetary Terms of Consensus, para 2(a) (b) & (c).
[5] June 19, 2015 Testimony EfficiencyOne, page 1044 lines 19-22, page 1045 lines 1-8.
[6] Exhibit 46, Rebuttal Evidence EOne, page 25, lines 5-7.

The SBA is encouraged by EOne's consistent clarification that any application to Board under paragraph 2 of the Non-Monetary Consensus is not intended as a mechanism to increase the budget. It is the SBA's expectation that EOne will operate effectively within the parameters set by the Board and will seek further funds only in extraordinary circumstances.

DSM Expenditure Justification Criteria (DEJC)

The SBA asks that the Board approve the agreement reached in the Monetary Consensus regarding establishment of DEJC. The parties have committed to discuss development of DEJC's in the DSM Advisory Group.[7]

While NS Power is not a signatory to the Monetary Consensus, the Reply Evidence filed by NS Power notes support for the DEJC:

> ...The Company agrees that there is merit to examining justification tools for DSM measures and programs as well as the associated incentive levels. As such, NS Power supports the SBA's recommendation regarding the development of the DEJC.[8]

NS Power was also questioned on the subject of DEJC's by the Consumer Advocate. When questioned, Ms. Curtis stated that NS Power did not take issue with the DEJC's being referred to the DSM Advisory Group.

> **MR. MAHODY:** ...You're familiar with what the testimony was for Mr. Athas regarding the expenditure justification criteria?
>
> **MS. CURTIS:** Yes, I'm familiar with it.
>
> **MR. MAHODY:** Okay. Do you have any objection to that topic going to the DSM Advisory Group as referenced here in Clause 5?
>
> **MS. CURTIS:** No, we don't.[9]

The SBA recommended DEJC similar to the Capital Expenditure Justification Criteria model used in the Annual Capital Expenditure proceeding. In his evidence, the SBA's consultant, John Athas draws parallels to the CEJC's and states that DEJC in relation to DSM could provide a framework for evaluation and management of DSM on a go forward basis.[10] It is within this context that the SBA respectfully requests the Board approve potential development of DEJC's being discussed within the DSM Advisory Group.

Cost-Effectiveness Testing

In the evidence filed as well as testimony at the hearing, there was significant discussion of cost effectiveness testing and the difference between the Program Administrator Cost (PAC) test versus the Total Resource Cost (TRC) test. The TRC test is the screening method currently used

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[7] Exhibit 61, Monetary Consensus, para. 5.
[8] Exhibit 45, Rebuttal Evidence NSPI, page 31, lines 25-28.
[9] June 18, Testimony NSPI, page 820, lines 8-16.
[10] Exhibit 41, Evidence of John Athas, page 14/15.

and as stated by EOne, is the test that has been in place since DSM has been in Nova Scotia.[11] The Monetary Consensus provides that the parties agree to work to achieve consensus on the issue of cost-effective testing to be applied in future DSM Resources Plans.[12] NS Power also outlined agreement with the proposal in the Monetary Consensus regarding cost-effectiveness testing.

> **MR. MAHODY:** And in Clause 7, under "Cost-Effectiveness Training," there is an indication that the screening tests to be applied in future DSM Resource Plans will become the subject matter of discussion at the DSM Advisory Group.
>
> Does the company have any views on that proposal?
>
> **MR. BLUNDEN:** I think we've always been supportive of any party bringing stuff to the DSM Advisory Group for discussion and consideration, and we would continue to do that.[13]

The SBA is of the view that the DSM Advisory Group is the appropriate forum to evaluate the proper cost-effectiveness screening test. In the event the parties are unable to reach agreement, the Monetary Consensus outlines the matter will be brought before the Board for determination. Discussion at the DSM Advisory Group level will allow the matter to be thoroughly analyzed so that in the event a referral to the Board is necessary, as much information as possible will be brought forward to assist with the decision.

Small Business Energy Study

The SBA is encouraged by EOne's commitment in the Monetary Consensus to undertake a Small Business Energy Study in 2016. The scope of the study will be developed in consultation with the SBA. [14]

In his evidence, John Athas stated a Small Business Energy Study would allow EOne to more closely consider energy usage and purchase habits of small business, develop class specific design considerations and perhaps establish some form of program expenditure tracking mechanism in relation to small business.[15] The SBA anticipates the Small Business Energy Study will focus on issues specific to small business as outlined by John Athas. It is submitted that it is important some consideration specifically related to small business be conducted to ensure the SBA classes are able to effectively participate in DSM programs.

Mr. Bluden on behalf of NS Power, stated in his testimony that while he did not have all details regarding the Small Business Energy Study, they could agree that further market research in development of DSM program would be beneficial.

[11] June 16, Testimony EOne, page 453, lines 11-18.
[12] Exhibit 61, Monetary Consensus, para. 7.
[13] June 18, Testimony NSPI, page 821, lines 8-18.
[14] Exhibit 61, Monetary Consensus, para. 6.
[15] Exhibit 41, Evidence of John Athas, page 19.

> **MR. MAHODY:** Okay. And in Item 6 there's reference to a Small Business Energy Study. Does NSPI take any issue with that study being undertaken and the way it's outlined here?
>
> **MR. BLUNDEN:** Again, I can't comment; I don't know the nature of the study, I don't know the cost of the study, I don't know who's paying for that study, whether it's coming across all classes. I just don't have enough information.
>
> Are we supportive of EfficiencyOne doing an appropriate amount of market research and studies to find out the best level of DSM and how that's done in Nova Scotia? Absolutely.[16]

In his testimony outlined above, Mr. Blunden refers to the cost of the study. This issue was also canvassed by Ms. Rubin on behalf of the IG. Ms. Vincent was clear that the cost of the Small Business Energy Study was already built into the existing budget under enabling strategies.

> **MS. RUBIN:** ...And in addition to the programs -- the suite of programs that you've put forward, there is an additional study that's being funded as part of that Settlement Agreement; correct?
>
> **MS. VINCENT:** It's -- there is a study that has been identified as part of that Settlement Agreement. There are, within enabling strategies, research and development activities that are planned for in all of our plans, so there is a particular study that has been identified. I wouldn't characterize it as additional.
>
> **MS. RUBIN:** Okay. And so is it intended that some of your planned enabling strategies, the funding towards that will be diverted towards the study in relation to small business?
>
> **MS. VINCENT:** It's not going to be diverted because there are research and development activities that are built within the plan.
>
> **MS. RUBIN:** At the time you developed the plan, had you already identified the research and development activities that you would be carrying out over the next three years?
>
> **MS. VINCENT:** Not specifically.
>
> **MS. RUBIN:** So this is not new funding. This is built in already.
>
> **MS. VINCENT:** We believe we can conduct the study within the -- within the amounts of enabling strategies within the plan.[17]

It is the SBA's position that a Small Business Energy Study will be critical for effective development of DSM programs for the SBA classes. It is the SBA's respectful submission that the Board allows EOne to undertake a Small Business Energy Study as outlined in the Monetary Consensus.

Cooperation between NS Power and EOne

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[16] June 18, Testimony NSPI page 821, line 1-7.

[17] June 16, Testimony EOne, page 318, lines 14-22, page 319 lines 1-19.

The SBA was also satisfied to see both NS Power and EOne outline in their testimony their commitment to cooperate on a go forward basis in relation DSM programs. When questioned by the SBA, Ms. Vincent on behalf of EOne stated as follows:

> **MS. VINCENT:** ...But certainly going forward it is EfficiencyOne's intent to work cooperatively with Nova Scotia Power, as EfficiencyOne does with all of its stakeholders, both informally and formally. And certainly we would anticipate doing that on a go-forward basis and for the next planned filing.[18]

And further, the SBA questioned NS Power on their ability to work with EOne on a go forward basis. On behalf of NS Power, Mr. Blunden noted:

> **MR. BLUNDEN:** And it's a great question. I think the level of cooperation has probably been mischaracterized a little bit in this proceeding. Our relationship with Efficiency Nova Scotia and EOne over the past and I expect in the future will continue to be strong. I'm very happy with the way our respective staffs work together. At the management level there's always been the right amount of respect and I think that will continue...[19]

It is this type of cooperation that the SBA hopes will continue between EOne and NS Power on a go forward basis.

All of which is respectfully submitted.

Yours very truly,

E. Nelson Blackburn, Q.C.
Small Business Advocate

/bmf

[18] June 15, Testimony EOne, page 180, line 22, page 181 lines 1-5.
[19] June 18, Testimony NSPI, page 839, lines 15-21.