Blackburn Law

VIA EMAIL

February 16, 2016

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: Nova Scotia Power Inc. – DSM Cost Allocation and Recovery - M07151

On November 30, 2015, in accordance with the Board's Order dated October 30, 2015, Nova Scotia Power Inc. (NSP) submitted its proposed cost recovery and accounting treatment for 2016 DSM costs to the Utility and Review Board (Board) for the remainder of the DSM contract period. This was prepared in light of legislative changes arising from the provincial electricity plan titled 'Our Electricity Future Nova Scotia's Electricity Plan 2015-2040' (the "Plan").

In a letter dated December 3, 2015 in the above referenced matter, the Board requested NSP provide additional detail regarding its specific cost recovery or accounting treatment proposed for the various DSM components provided below:

(a) 2015 DSM programs;
(b) 2016-18 DSM programs;
(c) 2014 rate-smoothing adjustment;
(d) 2014 DCRR amounts currently in rates;
(e) 2013 Balance Adjustment;
(f) 2014 Balance Adjustment;
(g) True-Up proposals.

On December 3, 2015, the Board issued a timetable for review of NSP's December 3rd filing, which was subsequently amended by the Board's January 22, 2016 order, calling for NSP to provide more detail on specific options to allocate DSM costs by rate class by December 18, 2015, intervenors to submit IRs by January 11, 2016 and submissions by February 16, 2016. The

T: 902-835-8544 F: 902-835-4310 E: info@blackburnlaw.ca www.blackburnlaw.ca

SUITE 231 BEDFORD HOUSE SUNNYSIDE MALL 1595 BEDFORD HIGHWAY BEDFORD NOVA SCOTIA B4A 3Y4

Nova Scotia Small Business Advocate ("SBA") participated in the IR process along with other parties and has reviewed NSPI's December 18th filing to formulate its comments.
In response to NSP's December 18th filing ("Dec 18th Filing"), the SBA provides comments in this letter on the appropriate cost allocation methodology for 2016 DSM costs that:

- clarifies the impact of NS Power's proposed cost allocation methodologies and true-up period;
- identifies the SBA's preferred cost allocation methodology; and
- requests that the Board review its decision to allocate DSM expenses according to a 75 % class cost / 25% system cost assignment beyond the current 2016 collection period.

The SBA has utilized several NSP documents to formulate the recommendations set out in this letter. NSP's DSM Cost Recovery Submission dated December 18, 2015 is referred to below as the Dec 18th Filing but not included as an attachment. Other documents are included as pdf attachments to SBA's comments are itemized below:

- Attachment SBA-1: NSP 20151218 DSM Cost Recovery Appendix A spreadsheet ("Appendix A");
- Attachment SBA-2: Settlement Agreement reached in M06475 2014 FAM Deferral ("Settlement Agreement");
- Attachment SBA-3: Exhibit N-1 - NSP DSM Cost Allocation Proposal Oct 30, 2015, p.6, ("Oct 30th filing");
- Attachment SBA-4: Exhibit N-9 - NSP Response to M07151 SBA IR-7.

SBA Recommendations

The SBA recommends that NSP apportion 2016 DSM costs to the individual rate classes in accordance with E1's DSM program budget for 2016 after applying the initial 75% customer class cost and 25% system cost allocation. This allocation methodology is referred to in NSP's December 18th letter as the "Traditional DSM Allocation" methodology and is illustrated in Appendix A in column E[1]. The total amount for E1's 2016 DSM budget is shown in row 18 of column E as $33,210,000, which is consistent with the Board's decision in M06733[2].

In addition, SBA agrees that there should be a true-up mechanism applied to DSM cost allocation but recommends that NSPI perform a true-up against actual DSM costs reported by E1 at the end of 2016 and annually thereafter.

[1] Attachment SBA-1

[2] Dated August 12, 2015 on page 1

Finally, SBA respectfully suggests that the Board should not approve NSP's recommendation to use its preferred methodology that would allocate 2016 DSM costs using class relative shares in rate base from the 2014 Cost of Service study.

SBA Observations

Why should NSP allocate costs based on E1's DSM budget allocation?

NSP's Dec 18th Filing discusses two cost allocation methodologies: Cost of Service and Actual DSM Alignment[3]. NSP illustrates the results of allocation method in Appendix A, with the DSM Cost methodology shown in Column M, and the Cost of Service methodology shown in Column Q.[4]

The impact of applying the Cost of Service methodology is shown in Appendix A Column T, where the values in Column T equal the corresponding values in Column M minus Column Q. If DSM actual spending were to equal the DSM Budget exactly, Column T shows that the impact of using the Cost of Service methodology for the true-up at the end of the year would result in over or under collections that vary significantly by rate class and in both directions.

The SBA prefers that NSP allocate the total 2016 DSM amount and the 2015 DSM Amortization amount according to E1's budget for 2016 and 2015, respectively, in order to more closely match the amount originally expected to be spent on individual rate classes in the E1 budget. As shown in Column T, the variance between allocating based on cost of service and the E1 budget could be an over or under recovery equal to more than $1 million for certain rate classes and greater than $0.5 million, in a positive or negative direction, for two of the rate classes the SBA represents.

The SBA recognizes its recommendation assumes that E1's DSM budget allocation is a better representation of actual class expenditures, which might not be the case. But the SBA believes that introducing an additional source of discrepancy by using a Cost of Service methodology does not promote rate stabilization. It also masks any difference due to lower rate class participation, which is a specific concern for the SBA.

---

[3] Page 5

[4] See Attachment SBA-1. Note that the 2016 DSM Plan total amount of $33,210,000 appears in Column E, which is adjusted by the 2015 DSM Plan amortization amount of $6,144,785, the 2010 and 2014 Balance Adjustment of -$8,518,030, and repayment of the interclass load repayment from the 2014 DSM program. The revised total after these adjustments is $30,836,755 as shown in column M, which is the same amount allocated using the 2014 Cost of Service Methodology as shown in Column Q.

Why does NSP suggest that the Cost of Service allocation methodology is appropriate?

NSP confirmed that it is forecasting that it can absorb the 2015 and 2016 DSM program costs into existing rates[5] and that it does not have a preference which cost allocation methodology is used for the true-up process[6]. In this same letter, however, NSPI acknowledged that it does indeed have a preference because it had recommended the cost of service allocation methodology in its October 30th filing[7].

The reason that NSP gives for recommending that the cost of service allocation methodology is appropriate is because "customer representatives had recently agreed to (a) similar allocation (that) could be considered a reasonable proxy for how funds being allocated to DSM were collected"[8]. NSP cites as its source for this reference to a customer representative agreement a specific clause in the M06475 Settlement Agreement[9], which states:

> "3. The $41.3M *and any subsequent allocations* will be allocated to customer classes as per the allocation methodology utilized by NS Power to develop the "Deferred Credit Allocation" tab as filed with the UARB on November 14, 2014 in the NSPI FAM Deferral proceeding (M06475)."(*italics added.*)[10]

However, this term in the M06475 Settlement Agreement is subsequently amended by clause 6, on the following page, which states:

> "6. Excepting with respect to the S.21 deferral account amounts in 2015, it is agreed that any ratepayer group shall be entitled to apply to the UARB for a determination of the prospective treatment of a NS Power deferral account(s) that has been or will be fully amortized. Ratepayer representatives agree to meaningful consultation with NS Power prior to filing such an application. This is all without prejudice to positions that NS Power and any participant could take in any such application."[11]

The SBA recommends that the Board consider NSP's reference in its December 18th filing to the M06475 FAM settlement agreement in the context of the terms of clause 6 as allowing for the application of the DSM Budget allocation methodology in M07151 to the 2016 DSM costs.

---

5 Dec 18th Filing, page 2.
6 Dec 18th Filing, page 5.
7 Dec 18th Filing, page 6.
8 Dec 18th Filing, pages 5-6.
9 Dec 18th Filing, footnote 4, page 6.
10 Attachment SBA-2, page 1.
11 Attachment SBA-2, page 2.

NSP's recommendation for a true-up at the end of the Contract Period is not appropriate for the small business classes.

It is apparent that NSP did not consider the specific needs and preferences of the small business customers in choosing a true-up procedure.

NSP recommends avoiding annual rebalancing by delaying any true-up until the end of the entire 2016-2018 Contract Period[12]. NSP argues that this recommendation has merit because it recognizes that:

- NSP is absorbing 2016 DSM expenses in its 2016 cost structure without a rate increase by finding savings in other areas of its operations;
- Until another GRA is completed it is not possible to segregate bundled customer rates into their DSM and non-DSM components by class; and
- This would allow E1 to develop the most cost effective program for each class over the whole contract period[13].

The SBA prefers an annual true-up process primarily because any credit due or additional charges needed to be applied to a rate class should be returned to that customer class as promptly as possible. This recommendation is consistent with the principal of minimizing inter-generational rate class subsidization. In other words, an annual true-up may reveal that E1 needs to develop more cost effective programs in recognition of economic conditions that result in high turnover among small business customers the SBA represents. The SBA anticipates that these trends will be further investigated as part of the E1's Small Business Study that is to be undertaken, and that the results of this study will do more to help E1 develop more cost-effective programs than a true-up at the end of the Contract Period.

Also, the SBA is concerned that any variance for one year, rather than being offset in the next, may be simply compounded over three years before E1 is able to respond, mitigating against rate stabilization for small business customers. Further, the compounding effect could be shown to be significant if E1's Small Business Study shows that the average life of small businesses is shorter than that assumed by E1.

---

[12] Dec 18th Filing, page 6.

[13] Dec 18th Filing, page 4.

The SBA recommends reconsideration of the 75% class cost / 25% system costs allocation of the DSM budget prior to further allocation among rate classes.

NSP has confirmed that its Cost Allocation Proposal presumes that both the Cost of Service Allocation and the Traditional DSM Allocation options are subject to the same initial 75% class cost / 25% system costs allocation[14].

The SBA recognizes that E1 has the ability to significantly change how dollars are spent through the amount of class participation, and that class participation is a function of program design. The SBA also anticipates that the results of the proposed E1 Small Business Study will have significant implications for E1 program design.

The 25% system cost allocation was originally applied in recognition that all customers, including non-participants, benefit to some extent from participation in DSM programs. However, the SBA is concerned that E1 may need to reduce the amount of DSM budget it allocates to the small business classes based on actual participation rates. Also, as with any methodology, the numbers could need to be refreshed which may result in a different allocation.

As a result, the SBA recommends that the Board consider direct assignment of 100% of DSM program costs by rate class because it would be more equitable for the rate classes the SBA represents.

Thank you for the opportunity to submit these comments.

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

Melissa P. MacAdam

[14] Attachment SBA-3, Oct 30th Filing, page 6 and Attachment SBA-4, NSPI Response to SBA IR-7, lines 18-19.

20151218 DSM Cost Recovery Appendix A and B - Appendix A

		2016 DSM Costs apportioned to rate classes using DSM cost allocation methodology										2016 DSM Costs apportioned to rate classes using class relative shares in rate base from 2014 COSS			Variance between two approaches	
	2016 Revenues Including FAM Riders	2016-2018 DSM Plan		2015 DSM Plan Amortized over 8 years		2010 and 2014 Balance Adjustment		Inter-class DSM loan from 2014 repaid over 2016-2018		Total		Class Relative Shares in utilization of Rate Base	Apportionment of DSM Costs based on Ratebase utilization	Apportioned DSM Costs as a percentage of total class revenue	Amount	% of total Class Revenue
Rate Class		Amount	% of Total Revenue	Amount	% of Total Revenue	Amount[1]	% of Total Revenue	Amount	% of Total Revenue	Amount	% of Total Revenue					
Residential	$707,735,493	$17,620,067	2.5%	$3,976,113	0.6%	-$5,482,870	-0.8%		0.0%	$16,113,310	2.3%	**54.3%**	$16,746,138	2.4%	$632,828	0.1%
Small General	$38,106,818	$1,516,677	4.0%	$229,155	0.6%	-$587,450	-1.5%	$233,088	0.6%	$1,391,470	3.7%	**2.7%**	$835,952	2.2%	-$555,518	-1.5%
General Demand	$325,324,922	$8,327,463	2.6%	$786,695	0.2%	-$1,272,809	-0.4%	-$1,198,960	-0.4%	$6,642,390	2.0%	**24.1%**	$7,431,969	2.3%	$789,580	0.2%
Large General	$45,141,052	$1,697,501	3.8%	$442,708	1.0%	-$783,267	-1.7%	$1,291,856	2.9%	$2,648,798	5.9%	**3.1%**	$951,130	2.1%	-$1,697,669	-3.8%
Small Industrial	$32,357,753	$724,374	2.2%	$137,763	0.4%	-$293,725	-0.9%	-$199,206	-0.6%	$369,205	1.1%	**2.4%**	$744,842	2.3%	$375,636	1.2%
Medium Industrial	$52,625,292	$978,345	1.9%	$185,074	0.4%	-$293,725	-0.6%	-$106,373	-0.2%	$763,320	1.5%	**4.3%**	$1,316,170	2.5%	$552,850	1.1%
Large Industrial	$66,570,928	$1,612,368	2.4%	$256,255	0.4%	$587,450	0.9%		0.0%	$2,456,073	3.7%	**5.9%**	$1,822,582	2.7%	-$633,491	-1.0%
Municipal	$20,492,071	$589,693	2.9%	$71,607	0.3%	$293,725	1.4%		0.0%	$955,025	4.7%	**1.7%**	$524,850	2.6%	-$430,175	-2.1%
Unmetered	$23,289,886	$111,547	0.5%	$55,370	0.2%	-$685,359	-2.9%	-$20,405	-0.1%	-$538,848	-2.3%	**1.5%**	$463,122	2.0%	$1,001,970	4.3%
Gen. Repl. / Load Foll.	$472,800	$23,987	5.1%	$3,592	0.8%	$0	0.0%		0.0%	$27,579	5.8%	**NA**	**NA**	**NA**	-$27,579	-5.8%
1P-RTP	$559,455	$6,385	1.1%		0.0%	$0	0.0%		0.0%	$6,385	1.1%	**NA**	**NA**	**NA**	-$6,385	-1.1%
Shore Power	$259,514	$1,593	0.6%	$454	0.2%	$0	0.0%		0.0%	$2,047	0.8%	**NA**	**NA**	**NA**	-$2,047	-0.8%
Total	**$1,312,935,984**	**$33,210,000**	**2.5%**	**$6,144,785**	**0.5%**	**-$8,518,030**	**-0.6%**	**$0**	**0.0%**	**$30,836,755**	**2.3%**	**100.0%**	**$30,836,755**	**2.3%**	**-$0**	**0.0%**

Footnote

(1) The total of $8,518,030 comes from E1 Nova Scotia's financial statement for the year ending 31, 2014. Allocation among rate classes is based on class balance adjustments for 2014 reported by E1 in Figure 5.1 - 2014 Rate Class Expenditures (unaudited) included in its Application of February 27, 2015. See Appendix B for details

2014 FAM Deferral Hearing – M06475

Settlement Agreement

WHEREAS the Nova Scotia Utility and Review Board (the "Board") provided its Decision on the 2014 Fuel Adjustment Mechanism ("FAM") Deferral Hearing (M06475) on November 25, 2014;

AND WHEREAS Nova Scotia Power Inc. (NS Power) committed during the Deferral Hearing that it would credit 2014 excess earnings to the benefit of customers and the Board ordered that the amount of $33.3 million in excess earnings or such amount as may be adjusted to year-end 2014 (the "2014 Earnings Allocation Amount"), as established by Board Order in P-893, be credited to the outstanding FAM under-recovery (the "FAM Deferral Account").

AND WHEREAS the parties wish to resolve the allocation of the 2014 Earnings Allocation Amount and excess earning amounts in future years, as well as issues regarding collection of rate revenues in 2015 notwithstanding that the Section 21 regulatory asset has been fully amortized;

AND WHEREAS this agreement is without prejudice to any position that may be taken in future regulatory proceedings or otherwise regarding amortization, collection of rate revenues and the treatment of regulatory assets or deferrals that would impact 2016 or beyond;

NOW THEREFORE, the Signatories to this Agreement agree:

1. NS Power will apply $41.3M in earnings (inclusive of the 2014 Earnings Allocation Amount) to reduce the FAM Deferral Account prior to the end of 2015. To the extent that the $41.3M is not applied by Jan 1 , 2015, the FAM interest calculation will be adjusted to the benefit of customers to reflect the interest charge that would have been calculated had the entire $41.3M been applied on Jan 1, 2015 until such a time that the entire $41.3M has been applied. The credited amount will result in a direct reduction of the 2015 FAM Deferral Account balance.

2. NS Power excess earnings beyond its approved range of return in 2015 and in each subsequent year will be applied to reduce the FAM Deferral Account for the benefit of customers.

3. The $41.3M and any subsequent allocations will be allocated to customer classes as per the allocation methodology utilized by NS Power to develop the "Deferred Credit Allocation" tab as filed with the UARB on November 14, 2014 in the NSPI FAM Deferral proceeding (M06475). It is acknowledged and agreed that as a result of customized repayment options, subsequent allocations may result in a credit in the FAM Deferral Account for a customer class.

4. Notwithstanding anything to the contrary, the requirement to allocate earnings in 2015 and beyond, as described in paragraph 2 above, shall terminate the earlier of when the next General Rate Application approval has taken effect, the effective date of a

determination by the Board in response to an application pursuant to paragraph 6 below that revises the treatment of the revenues recovered in relation to deferral accounts, or if there is a material change in law that affects the Company's regulatory framework and/or cost structure, the materiality of which will either be agreed to by the parties or determined by the Board.

5. The FAM incentive will continue to be suspended in 2015.

6. Excepting with respect to the S. 21 deferral account amounts in 2015, it is agreed that any ratepayer group shall be entitled to apply to the UARB for a determination of the prospective treatment of a NS Power deferral account(s) that has been or will be fully amortized. Ratepayer representatives agree to meaningful consultation with NS Power prior to filing such an application. This is all without prejudice to positions that NS Power and any participant could take in any such application.

All of which is hereby agreed to this 2nd day of December 2014

Nova Scotia Power Incorporated

Per: DAVID LANDRIGAN

Consumer Advocate

Per:

Small Business Advocate

Per:

Industrial Group

Per: NANCY RUBIN

Municipal Electric Utilities Co-Operative of Nova Scotia

Per:

determination by the Board in response to an application pursuant to paragraph 6 below that revises the treatment of the revenues recovered in relation to deferral accounts, or if there is a material change in law that affects the Company's regulatory framework and/or cost structure, the materiality of which will either be agreed to by the parties or determined by the Board.

5. The FAM incentive will continue to be suspended in 2015.

6. Excepting with respect to the S. 21 deferral account amounts in 2015, it is agreed that any ratepayer group shall be entitled to apply to the UARB for a determination of the prospective treatment of a NS Power deferral account(s) that has been or will be fully amortized. Ratepayer representatives agree to meaningful consultation with NS Power prior to filing such an application. This is all without prejudice to positions that NS Power and any participant could take in any such application.

All of which is hereby agreed to this 2nd day of December 2014

Nova Scotia Power Incorporated

Per:

Consumer Advocate

Per:

Small Business Advocate

Per:

Industrial Group

Per:

Municipal Electric Utilities Co-Operative of Nova Scotia

Per:

determination by the Board in response to an application pursuant to paragraph 6 below that revises the treatment of the revenues recovered in relation to deferral accounts, or if there is a material change in law that affects the Company's regulatory framework and/or cost structure, the materiality of which will either be agreed to by the parties or determined by the Board.

5. The FAM incentive will continue to be suspended in 2015.

6. Excepting with respect to the S. 21 deferral account amounts in 2015, it is agreed that any ratepayer group shall be entitled to apply to the UARB for a determination of the prospective treatment of a NS Power deferral account(s) that has been or will be fully amortized. Ratepayer representatives agree to meaningful consultation with NS Power prior to filing such an application. This is all without prejudice to positions that NS Power and any participant could take in any such application.

All of which is hereby agreed to this 2nd day of December 2014

Nova Scotia Power Incorporated

Per:

Consumer Advocate

Per:

Small Business Advocate

Per:

Industrial Group

Per:

Municipal Electric Utilities Co-Operative of Nova Scotia

Per:

3.0 NS POWER'S POSITION

The current 25/75 per cent split between system cost and participant cost was agreed to by stakeholders to the 2009 Settlement Agreement. It appropriately recognizes that rate class benefits from DSM programs are higher if the class participates in the program. The direct assignment of 75 per cent of DSM expenses to those classes who caused them aligns with a cost of service principle that to the extent possible, and correct to do so, costs should be assigned to rate classes directly[5]. To the extent there are external benefits that accrue to non-participating classes they should pay for the costs of these benefits, too. Since the nature of DSM programs is such that they primarily benefit participating customers through reduced energy bills, logic dictates that directly assigned costs should represent the majority of the total DSM spent. The current methodology assigns 75 per cent of costs to the participating classes.

NS Power recommends maintaining the current cost allocation methodology but proposes changes to the cost allocation methodology for Enabling Strategies that would limit the need for tracking of Enabling Strategies by rate class. Specifically, the Company proposes that Enabling Strategies be allocated along the same 25/75 per cent split, except in the following two cases:

(i) where the benefit of a particular Enabling Strategy clearly benefits a rate class(es) and the cost exceeds $100,000 CDN, the costs shall be fully allocated to that rate class (for example, the Small Business study currently contemplated in E1's 2016 plan will be allocated to the SBA if the cost of such study exceeds $100,000); and,

[5] NS Power Cost of Service 2013, M05473, AVON (NSPI) IR-18.

NON-CONFIDENTIAL

Request IR-7:

Please confirm whether each of the alternatives NSPI presents for consideration on pp. 5-6, as well as the reference on page 7 to "additional variations that could be considered", presume that the true up would be subject to the 75% class cost / 25% system cost allocation.

Response IR-7:

Not confirmed. In its letter dated December 18, 2015, the Company had proposed the following three alternatives for consideration:

(1) Cost of Service Allocation
(2) Actual DSM alignment
(3) No Allocation

NS Power does not propose that the true-up be applied under the third listed method: "No Allocation". Company proposes, however, that under the first two methods that the same true up, subject to the 75% class cost / 25% system cost allocation, be applied.