

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF: The *PUBLIC UTILITIES ACT*

IN THE MATTER OF: An application by NOVA SCOTIA POWER
INCORPORATED for approval of an Authorization to
Overspend (ATO) in the amount of \$8,201,086 on capital
application project CI 50518 – HYD Ruth Falls Main Dam
Refurbishment, increasing the Company's request for Board
approval of a total project capital cost of \$15,445,508

INFORMATION REQUESTS
(REDACTED)

To: **Lana Myatt**
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From: The Consumer Advocate

Responses Due: **December 3, 2024**

Copies: 1 electronic copy (PDF searchable)

Contact Person: **David J. Roberts**
Consumer Advocate
Pink Larkin
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1 **Request IR-1:**

2
3 **Reference:** “This project was identified as a high priority within NS Power’s dam safety risk
4 prioritization due to the deteriorated condition of the concrete structures and the stability
5 deficiencies in the embankment and spillway/sluceway structures. The refurbishment of the dam
6 is scheduled to begin in 2019 with the procurement of the rubber dams and vertical lift gates,
7 followed by construction in 2020.” (ATO, p. 3)
8

9 (a) Please confirm whether refurbishment began in 2019 with the procurement of the rubber
10 dams and vertical lift gates. If there were any delays, please identify and explain.
11

12 (b) Please confirm whether construction started in 2020. If there were any delays, please
13 identify and explain.
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15 **Request IR-2:**

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17 **Reference:** NS Power indicates that “Option 4” was the preferred option from the five options
18 initially considered, for the following reason: “Option 4 is approximately \$500,000 less costly than
19 the next closest option. Option 4 also meets the operational requirements to manage system and
20 the design flows” (ATO, p. 4)
21

22 (a) Given current projected costs, does Option 4 remain the most economical option?
23

24 (b) Do any of these previously considered options remain viable alternatives at this time?
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26 **Request IR-3:**

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28 **Reference:** “The increase of approximately \$8.2 million compared to the approved 2019 ACE
29 Plan budget of \$7,244,422 is due to increased environmental permitting requirements, extended
30 construction timeline, and costs associated with Mi’kmaq Engagement”. (ATO, p. 4)
31

32 (a) Please discuss the process used by NS Power to develop the original environmental
33 permitting timelines and budgets? In particular, did NS Power consult with DFO, NSECC
34 and/or Transport Canada prior to developing the original timelines and budgets?
35

36 (b) What sources of information, advice and/or experience did NS Power rely on in developing
37 the original environmental permitting timelines and budgets?
38

39 (c) Please provide a table the compares the original environmental permitting budgets with the
40 revised environmental permitting budgets.

(d) Please provide a table or figure that compares the original environmental permitting schedule/timeline with the revised environmental permitting schedule/timelines.

(e) Please explain when NS Power became aware of each of the following:

i. Increase environmental permitting requirements

ii. extended construction timeline;

iii. costs associated with Mi'kmaq Engagement.

(f) Please explain why none of these issues or the associated costs were foreseen or identified previously?

Request IR-4:

Reference: “Subsequent to the approval of the original filing, NS Power was required to obtain a Fisheries Act Authorization (FAA) for the work from DFO, which was not required at the time of original filing. This FAA contained new conditions around fish passage requirements as well as requirements for NS Power to implement an Environmental Offsetting Program. The costs associated with the required studies, design, and construction of fish passage per the FAA were approximately \$3 million and the project costs associated with the Environmental Offsetting Program were approximately \$1.3 million.” (ATO, p. 4)

(a) When were the new FAA conditions implemented?

(b) When did NS Power become aware that these FAA conditions would be implemented?

(c) Please provide specific detail on the legislation or policy changes that resulted in the new requirements for a Fisheries Act Authorization and the fish passage and environmental offsetting programs.

Request IR-5:

Reference: “NS Power applied for the Watercourse Alteration Permit on December 17, 2019 and received the Permit Approval on June 30, 2024. The Company applied for an authorization in accordance with Transport Canada’s Navigation Protection Program on April 30, 2021. The Watercourse Alteration Permit was received on July 30, 2024.” (ATO, p. 4)

(a) Please provide a detailed timeline of NS Power’s application for the Watercourse Alteration Permit, including any follow-up discussions or correspondence with the relevant agencies concerning the application once filed. Please include supporting documentation with the response.

(b) Please provide a detailed timeline of NS Power’s application for the Navigation Protection Program, including any follow-up discussions or correspondence with the relevant

1 agencies concerning the application once filed. Please include supporting documentation
2 with the response.
3

4 **Request IR-6:**
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6 **Reference:** NS Power applied for the FAA from DFO on June 24, 2020 and received four
7 incomplete letters from DFO between August 4, 2020 and September 11, 2023. Each incomplete
8 letter received by NS Power contained additional requests for information from DFO that had not
9 been requested as part of previous incomplete letters. The additional requests, and any work
10 associated with them, were not known at the time the original Project budget was developed and
11 submitted to the Board. The costs associated with the additional studies, design, construction and
12 Environmental Offsetting, as required by DFO resulted in increases to Project costs.
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14 A summary of the correspondence between NS Power and DFO on NS Power's FAA application
15 is summarized in Attachment 1.
16

- 17 (a) Please provide a detailed timeline of NS Power's application for the FAA, including any
18 follow-up discussions or correspondence with the relevant agencies concerning the
19 application once filed. Please include supporting documentation with the response.
20

21 **Request IR-7:**
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23 **Reference:** "As a result of the additional work required to address environmental permitting
24 requirements, the construction timeline was extended leading to increased project costs of
25 approximately \$2 million. The project costs submitted as part of the original Application were
26 established in 2018; however, as a result of the additional environmental permitting requirements,
27 construction is now deferred until 2025 and 2026. There have been substantial pricing shifts in
28 concrete and steel commodity markets since 2018, resulting in increased costs. There have also
29 been increases in the amount of project support labour, technical support labour, and term
30 environmental support labour as a result of the extended construction timeline." (ATO, p. 5)
31

- 32 (a) Is it NS Power's position that the extended construction timeline was caused solely by the
33 delay in obtaining necessary permits, or were there any other contributing factors?
34
35 (b) If NS Power is aware of any other factors that may have contributed to delays, then please
36 identify and explain.
37
38 (c) Is it NS Power's position that if the necessary permits had been obtained in a more timely
39 manner then the construction timeline would not have been extended, and accordingly costs
40 would have been on budget?
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42 **Request IR-8:**
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44 **Reference:** "Further engagement with the Mi'kmaq of Nova Scotia and archaeological
45 investigation was required to understand and meaningfully address concerns associated with the
46 protection of pre-contact First Nations archaeological sites and other environmental issues

1 associated with the lowering of the Ruth Falls Reservoir 18 feet below the minimum operating
2 level. This has led to additional costs of approximately \$400,000.” (ATO, p. 3)

3
4 (a) Please provide further details regarding the extent of NS Power’s engagement with the
5 Mi’kmaq of Nova Scotia, and explain why this led to additional costs of approximately
6 \$400,000.

7
8 (b) Please discuss why concerns related to the reservoir lowering could not have been
9 previously anticipated?

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11 **Request IR-9:**

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13 **Reference:** NS Power states that regular labour costs will increase by \$444,441, with term labour
14 increasing by \$94,851, plus associated overtime, all due to additional “project management support
15 & environmental services labour”. (ATO, p. 5)

16
17 (a) Please provide a full breakdown of these costs, including when incurred and in respect of
18 which permit applications.

19
20 (b) Please elaborate upon any cost minimization efforts NS Power has made with respect to
21 these costs.

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23 **Request IR-10:**

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25 **Reference:** NS Power states that materials will increase in cost by approximately \$1.4M. (ATO,
26 p. 5)

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28 (a) Please elaborate upon any cost minimization efforts NS Power has made with respect to
29 cost of materials.

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31 **Request IR-11:**

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33 **Reference:** NS Power states that cost of contracts will increase by approximately \$2.6M. (ATO,
34 p. 5)

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36 (a) Please provide a full breakdown of these costs.

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38 (b) Please elaborate upon any cost minimization efforts NS Power has made with respect to
39 these costs.

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41 **Request IR-12:**

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43 **Reference:** NS Power states that costs for consulting have increased by approximately \$1.6M.
44 (ATO, p. 5)

45
46 (a) Please provide a full breakdown of these costs.

(b) Please elaborate upon any cost minimization efforts NS Power has made with respect to these costs.

(c) If not otherwise addressed in part (a), please provide details of the required offsetting programs and explain why offsetting costs are considered consulting costs.

Request IR-13:

Reference: NS Power states that costs for Mi'kmaq Engagement are [REDACTED], whereas previously no costs had been budgeted.

(a) Please provide a full breakdown of these costs.

(b) Please explain why these costs were not initially budgeted.

(c) Please explain the discrepancy between the costs referenced at p. 3 of the Application (\$400,000) versus the costs referenced at p. 6 of the Application ([REDACTED]).

Request IR-14:

Reference: "The original contingency amount remains unchanged, however additional contingency has been added to cover uncertainty around the amount of offsetting costs required by DFO, which has yet to be confirmed and has the potential to vary significantly."

(a) On what basis does NS Power state that the "amount of offsetting costs required by DFO ... has the potential to vary significantly"?

(b) Please provide NS Power's best estimates on the potential variance of these costs.

Request IR-15:

Reference: NS Power states that costs for Administrative Overhead will increase by \$341,503, compared to an original budget of \$72,085.

(a) Please provide a full breakdown of these costs.

(b) Please elaborate upon any cost minimization efforts NS Power has made with respect to these costs.

(c) Please explain why the administrative overhead for this project has increased so significantly in just five years.

1 **Request IR-16:**

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3 **Reference:** NS Power states that costs for Contractor Administrative Overhead will increase by
4 \$286,012.

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6 (a) Please provide a full breakdown of these costs.

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8 (b) Please elaborate upon any cost minimization efforts NS Power has made with respect to
9 these costs.

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11 **Request IR-17:**

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13 **Reference:** NS Power states that AFUDC will increase by \$612,215.

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15 (a) Please provide a continuity schedule showing for each year the balances and the AFUDC
16 rates used to calculate the revised AFUDC interest amounts.

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18 **Request IR-18:**

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20 **Reference:** In M09579, NS Power sought an Authorization to Overspend on the Gaspereau Dam
21 Safety Remedial Works in the amount of approximately \$18M. In M10197, NS Power sought an
22 Authorization to Overspend on the Tusket Main Dam Refurbishment in the amount of
23 approximately \$37M.

24
25 (a) Has NS Power made any efforts to improve its planning with respect to hydro projects
26 since the ATO applications for Gaspereau and Tusket Falls were filed? If so, please provide
27 details, and confirm whether these efforts have impacted NS Power's planning for Ruth
28 Falls.