

Please refer to: David Roberts
Email: droberts@pinklarkin.com
Assistant: McKayla Cameron
Assistant's email: mcameron@pinklarkin.com

March 25, 2025

VIA EMAIL

Crystal Henwood
Regulatory Affairs Officer/Clerk of the Board
Nova Scotia Utility and Review Board
3rd Floor Summit Place
1601 Lower Water Street
Halifax NS B3J 3S3

Dear Ms. Henwood:

**RE: M11927 – NSPI – CI 50518 – HYD Ruth Falls Main Dam Refurbishment - \$15,445,508
(ATO)**

These are the submissions of the Consumer Advocate concerning the application of Nova Scotia Power for authorization to overspend on the project to refurbish the Ruth Falls Main Dam.

According to the application, the project has been identified as a “high priority within NS Power’s dam safety risk prioritization due to the deteriorated condition of the concrete structures and the stability deficiencies in the embankment and spillway/sluceway structure.”: Exhibit N-1, Application of Nova Scotia Power, page 1.

The project was originally approved by the Board as part of Nova Scotia Power’s 2019 ACE Plan with a budget of approximately \$7.2 million. The Utility has applied for authorization to overspend that budget by approximately \$8.2 million: Exhibit N-1, supra, page 2.

Most of the overspend, approximately \$4.2 million, is attributed to costs arising from increased permitting requirements imposed by the federal environmental legislation. The time required to deal with the evolving permitting environment lead to further increases in construction costs, costs associated with the assessment and management of archeological resources and in costs arising from increasing engagement with the Mi’kmaq community.

The Board Counsel Consultant, Midgard Consulting, has concluded that only one category of increases, those related to archeological resources, appeared to be unreasonable. Midgard suggests that the Board could deny the increases related to archeological resources because the costs should have been known to the Utility at the time of its original application: Exhibit N-10, Report of Midgard Consulting, section 4.1.3, page 26.

Midgard found that all the other reasons put forward by Nova Scotia Power for the increases in project costs were valid: Exhibit N-10, Report of Midgard Consulting, section 7.1.

Costs Appear Reasonable

The Consumer Advocate sees no reason to disagree with the conclusions reached by the Board Counsel Consultant. Although the amount of the requested overspend exceeds the original budget for the project, Nova Scotia Power had no choice but to comply with the new permitting requirements that were imposed by federal authorities and to undertake the work that was required in order to do that. The time this took necessarily lead to an overall increase in project costs.

Similarly, there is no basis upon which to question the need for the increased engagement with Indigenous communities or the requirement to fully fund the assessment and management of the archeological resources that will be affected by the project.

It seems clear that some of these costs, particularly those associated with archeological resources, could have been foreseen at the time of the original application. However, the issue there is the failure to account for these costs in the original budget, rather than the validity of the expense itself.

The Consumer Advocate therefore recommends that the Board direct Nova Scotia Power to undertake a review of its budgeting processes for archeological work in view of the evolving regulatory environment and the need to fully consult and engage with Indigenous peoples.

Possible Decommissioning

Nova Scotia Power states in its original application that it considered five different options for carrying out the refurbishment that was required to the dam, spillway and sluiceway and chose the option that was most cost-effective: Exhibit N-1, Application of Nova Scotia Power, page 2. However, the Utility did not reevaluate the options in its application for authority to overspend nor did it assess the cost of decommissioning the dam.

In its reply evidence, Nova Scotia Power presented a summary of what it says would be the costs and timeline for the decommissioning of the Ruth Falls dam and powerhouse. It claims the information demonstrates that “refurbishment is the most economic option and is in the best interest of Nova Scotia Power’s ratepayers.”: Exhibit N-12, Reply Evidence of Nova Scotia Power, page 18, lines 4-8.

Because of the stage of the proceeding at which this evidence was presented, neither the Board nor the Intervenors have had an opportunity to question the factual assertions upon which this claim is based. It may well be, as Midgard Consulting observed, that the option of decommissioning the Ruth Falls dam would not be considered economic by Nova Scotia Power: Exhibit N-9, Report of Midgard Consulting, page 55.

However, that conclusion should not be reached without careful examination by the Board and the parties. The Consumer Advocate recommends that the Board direct Nova Scotia Power to include a decommissioning option in any future application regarding similar facilities.

Conclusion

The Consumer Advocate thanks the Board for the opportunity to make these submissions.

Yours truly,

Pink Larkin



David Roberts,
Consumer Advocate