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Delivered by E-mail

Crystal Henwood
Regulatory Affairs Officer/Clerk
Nova Scotia Utility and Review Board
3rd Floor, 1601 Lower Water Street
PO Box 1692, Unit "M"
Halifax NS B3J 3S3

Dear Ms. Henwood:

Re: M11927 - NSPI - CI 50518 – HYD Ruth Falls Main Dam Refurbishment ATO

These comments are submitted on behalf of the Industrial Group. We address three topics:

1. Unit rates for offsetting;

2. Decommissioning; and

3. Reporting.

Background

In its Application for Authorization to Overspend ("**ATO"**), NSPI sought approval for an additional $8.21 million on corrective actions regarding the main dam representing more than a doubling of the original approval of $7.24 million, for a total project spend of approximately $15.45 million.[1]

The Board rendered its decision on June 18, 2025,[2] finding that NSPI did not imprudently fail to account for the Fisheries Act Authorization ("**FAA**") costs at the time of the original 2019 ACE Plan application and that much of the costs and delays in securing the FAA were due to evolving requirements from the Department of Fisheries and Oceans ("**DFO**").[3] Nonetheless, the Board found there were still issues and risk areas regarding environmental compensation costs, archeological and geotechnical costs. Accordingly, at paragraph 71 the Board concluded:

> *[71] The Board has, therefore, decided to hold the current ATO application in abeyance until the final project FAA is received from DFO. Once the FAA has been obtained by NS Power, the company can file an amended ATO application.*

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1 Exhibit N-1, Application, October 11, 2024, refiled November 29, 2024.

2 *Nova Scotia Power Incorporated (Re*), 2025 NSEB 6.

3 *Ibid*, at para. 64.

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> *The Board expects the amended application to include an updated detailed project cost estimate resulting from finalization of the FAA process. The updated estimate must include explanation describing the reasons for any line-item cost changes compared to the detailed estimate provided in the current ATO application. When the amended ATO application is filed, the Board will establish a new timeline for the proceeding.*

NSPI objected to holding the matter in abeyance and expressed concern with respect to fish management and public safety. In acknowledging these concerns, the Board noted that NSPI has successfully managed these risks since 2015 (and the original DFO submission in 2019) and reminded NSPI it was expected to continue to do so as this "remain[s] NS Power's responsibility".[4]

In the Midgard evidence it recommended a decommission comparator. In reply, NSPI stated it completed an analysis of the decommissioning option involving removal of the Ruth Falls Dam and Powerhouse. In its Reply Evidence, NSPI provided tables of decommissioning activities by year, broken down by cost category.[5] The total decommissioning costs in Table 5 were $81.6 million (per footnote 12, updated to $84.5 million developed as part of NSPI's upcoming Depreciation Study).

While NSPI's Reply Evidence provided some evidence of line-item cost estimates and assumptions used, the Board observed that neither it nor Intervenors had been able to test this information. Given the Board's concerns and NSPI's commitment to provide decommissioning costs in future hydro applications, the Board directed NSPI to:

> *[82] … include a Ruth Falls decommissioning cost analysis in its amended ATO application. This analysis shall include a robust comparative NPV analysis of the proposed Ruth Falls Main Dam Refurbishment Project to the decommissioning option. The NPV analysis is to include, but not be limited to, all future sustaining capital, operating and maintenance costs associated with continued operation of the Ruth Falls Hydro System. It is also to include costs for replacement generation under the decommissioning scenario."*

The FAA and Compliance Filing

On June 17th, the day before the Board rendered its Decision, NSPI received its FAA.[6]

Two and a half weeks later, on July 4th, NSPI submitted the FAA with a "Compliance Filing" requesting approval of an amended ATO.[7] It requested an expedited process and decision to enable in-water construction between July 21, 2025, and March 31, 2026.

As part of its Compliance Filing, NSPI provided an economic analysis model ("**EAM"**) which presents an NPV analysis comparing its preferred refurbishment option to a decommissioning

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4 Decision, at para.72.

5 Exhibit N-12, NSPI Reply Evidence, Figures 4 and 5.

6 Exhibit N-13, Attachment 1.

7 Exhibit N-13, Attachment 1.

option. NSPI also updated the Approval Sheet, requesting approval for an ATO of approximately $7.59 million for total project costs of approximately $14.84 million – a difference of about $620,000 from the October ATO application.[8]

1. Offsetting Costs

In its October ATO application, NSPI used 20,000 m^2 at $25/$m^2$ plus an additional contingency of $500,000 which allowed for total offsetting of 40,000 m^2. In the FAA, it outlines the permanent and temporary destruction of fish habitat occasioned from the project. Section 4.2 of the FAA describes the offsetting plan to restore 27,601 m^2 of existing degraded fish habitat.

NSPI stated it amended its ATO request to reflect the confirmed offsetting costs, representing a reduction of approximately $606,000, principally reflecting the elimination of the $500,000 offsetting contingency.[9] However, while the gross area of degraded fish habitat to be offset is now certain, the unit rate and its validity remain unclear. As outlined in the Board's Decision, NSPI had originally estimated a higher unit cost of offsetting works but used $25/$m^2$ in the ATO application as suggested by DFO. NSPI provided no rationale or clarification in its Reply, as noted by the Board:

> *[69] Additionally, NS Power has allocated $500,000 in its contingency to cover uncertainty around the amount of habitat offsetting costs required by DFO. However, this cost was developed using a rate of $25/$m^2$ suggested by DFO instead of NS Power's own originally proposed higher rate. The Utility has not provided any clarification on why it did not use its own figures. Further, the ATO application allows for total offsetting of 40,000 m^2 at a unit rate of $25/$m^2$. If this unit rate is replaced by the Utility's initially higher estimate, the project would face a significant increase in cost based on this risk alone. This also does not account for the cost risk associated with the potential for a higher required offset area amount, as referenced in DFO's June 6, 2024, email.*

Therefore, while there is more clarity regarding the habitat offsetting required by DFO, there continues to be no specific justification and evidentiary support for a $25/$m^2$ unit rate. The Industrial Group refers the Board to NSPI's (confidential) estimate of offsetting unit costs in response to Board staff IRs, as summarized in Midgard's Amended evidence.[10]

The elimination of the contingency in the amended ATO suggests NSPI has a high degree of confidence in the $25/$m^2$ unit rate (or that there is sufficient allowance in respect of other contingencies). In the absence of justification, the Industrial Group recommends that NSPI be held to this allowance for habitat offsetting.

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8 Exhibit N-13(i).

9 Exhibit N-13, Att. 3, page 2 of 2.

10 Exhibit N-6(i)(C) NSPI (NSUARB) IR-12 Att.14B (Conf) and Exhibit N-9(C) Midgard Amended Evidence, page 56.

2. Decommissioning Costs

In comparing the refurbishment versus the decommissioning option, it appears that the capital investment over time is greater for refurbishment, but it becomes more economic when factoring in the cost of replacing the hydro energy from the decommissioned plant, based on the modeled costs. If this is the case for such a small facility, without alternatives for decommissioning or external support for funding, it seems likely that ratepayers will be investing in these hydro plants indefinitely.

With respect to the decommissioning option presented, NSPI has restated the information submitted in its Reply Evidence in Table 5 with a capital cost of $81.6 million. While NSPI has labelled it as "partial decommissioning", it is unclear what makes it "partial" versus full when it includes full dam and powerhouse removal, management of sediment, fish habitat and wetland compensation and site reinstatement.

In the expedited timetable requested, there continues to be no opportunity to question the details of the decommissioning scenario and whether there is any alternative with partial decommissioning that would or could manage the impact on the environment and fish habitat in a less costly way The Industrial Group recommends that more detail and a range of decommissioning options be presented in any future hydro projects.

3. Reporting

NSPI has alluded to a tight construction schedule, referring to its February 2025 application to the DFO, which is also referenced in the FAA. The FAA requires NSPI to submit a detailed construction schedule and monthly progress updates. The Industrial Group recommends that these be provided concurrently to the Board and interested stakeholders, with quarterly (or every six months) reporting on spending as against the approved budget.

Finally, consistent with approval of NSPI's reconstruction of its office premises at Lower Water Street, NSPI should be directed to manage the project within the envelope of money approved.[11]

Conclusion

The Industrial Group respectfully requests the Board direct NSPI to:

1. Manage offsetting expenses on this project within the allowance of unit cost applied for of $25 /m^2;

2. Include a range of decommissioning options for review in any future hydro project applied for with the Board;

3. Provide the detailed construction schedule and monthly progress updates concurrently to the Board, with reports on spending as against the approved budget on a quarterly or every six months basis; and

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[11] *Nova Scotia Power Inc. (Re),* 2008 NSUARB 165, December 23, 2008, p.18.

4. Manage the project expenses within the envelope approved by the Board, before accounting for any allowances for funds used during construction.

Thank you for the opportunity to submit these additional comments.

Respectfully,

Nancy G. Rubin

Brianne Rudderham

NGR//BER/lmc

cc William Mahody, K.C.
Participants