

**NOVA SCOTIA UTILITY AND REVIEW BOARD**



**IN THE MATTER OF THE PUBLIC UTILITIES ACT**

**- and -**

**IN THE MATTER OF the NOVA SCOTIA POWER INCORPORATED** 2017-2019 Fuel Adjustment Mechanism (FAM) proceeding relating to the Actual Adjustment (AA) and Balance Adjustment (BA) recovery values

**BEFORE:**

Peter W. Gurnham, Q.C., Chair  
Roland A. Deveau, Q.C., Vice-Chair  
Steven M. Murphy, MBA, P. Eng., Member  
Richard J. Melanson, LL.B., Member

**COUNSEL:**

**NOVA SCOTIA POWER INCORPORATED**  
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**CONSUMER ADVOCATE**

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**INDUSTRIAL GROUP**

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**SMALL BUSINESS ADVOCATE**

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**BOARD COUNSEL  
CONSULTANT:**

The Liberty Consulting Group

**FILING DATE:**

November 14, 2016

**REPLY EVIDENCE:**

December 2, 2016

**DECISION DATE:**

**December 12, 2016**

**DECISION:**

**The Board approves the 2017-2019 AA and BA balances, subject to the adjustments as noted.**

## 1.0 INTRODUCTION AND BACKGROUND

[1] Nova Scotia Power Incorporated (“NSPI”) seeks approval of the Fuel Adjustment Mechanism (“FAM”) Actual Adjustment (“AA”) and Balance Adjustment (“BA”) to be applied to the period 2017-2019.

[2] A FAM is a mechanism that allows adjustments to customer electricity rates to reflect increases and decreases in a utility’s cost of fuel, provided they are prudently incurred.

[3] The FAM is administered in accordance with a Plan of Administration (“POA”), the current version of which was approved by the Nova Scotia Utility and Review Board (“Board”) by Order issued February 17, 2015, with amendments to Appendix B accepted on June 17, 2015. The FAM has three components: the Base Cost of Fuel (“BCF”); the AA, and the BA, both of which are calculated and applied annually under the POA. The BCF may be set in a General Rate Application (“GRA”) or otherwise is set every two years under the POA.

[4] The typical functioning of the annual AA/BA process during the 2017-2019 period has been suspended by the Province’s enactment of the *Electricity Plan Implementation (2015) Act* (“EPIA”). While all elements of this statute are more fully described in the Board’s recent *2017-2019 Base Cost of Fuel (“BCF”) Decision*, 2016 NSUARB 129, the primary thrust of the *EPIA* is to provide that any changes in the BCF during the 2017-2019 period (“Rate Stability Period”) must be applied in equal annual increments (or decrements if fuel costs are expected to decrease) over the calendar years 2017, 2018 and 2019. This provides for stable rates for consumers during that period.

[5] The *EPIA* also provides for a similar stable period respecting the AA/BA. Under the *EPIA*, any fuel-related charges or adjustments set for the Rate Stability Period will remain in effect through the Rate Stability Period. Section 10 of the *EPIA* provides:

**10** Notwithstanding any requirement of the Fuel Adjustment Mechanism for annual adjustments, any adjustments implemented on January 1, 2017, must remain in place throughout the Rate Stability Period and must be adjusted so that any intended recovery or reimbursement of costs is made over the course of the Rate Stability Period.

[6] Thus, NSPI will apply the AA (2016 forecast BCF over-recovery) and BA amounts (arising from the 2016 AA and BA forecasted remaining balances at 2016 year-end) to all customer classes over the course of the Rate Stability Period, as described in this Decision. As required by the *EPIA*, NSPI will continue to track the AA and BA amounts throughout the Rate Stability Period, and will apply to have the remaining balances at the end of 2019 recovered or refunded to customers in 2020.

[7] For purposes of establishing customer Riders in 2017-2019 for the FAM, NSPI made a regulatory filing on November 14, 2016, which included ten months (January to October 2016) of actual fuel-related costs and two months (November and December 2016) of forecast costs. The AA represents the difference between the fuel-related costs recovered and the costs in 2016.

[8] The accumulation of prior year uncollected fuel costs make up the BA, plus interest accumulated on that balance.

[9] NSPI submitted AA and BA calculations to be applied to customers' bills beginning January 1, 2017, January 1, 2018; and January 1, 2019, respectively. NSPI calculated the AA as a credit of \$34.1 million including interest, and an amount of \$2.6 million due to NSPI for the BA including interest.

[10] A summary of the calculation for AA and BA is shown in NSPI's application as Figure 1:

**Figure 1 – 2017-2019 AA and BA Amounts**

Item	Amount (\$ millions)
<b>2017-2019 AA amount</b>	
1. 2016 Over Recovery of Fuel Costs	(36.1)
2. 2016 Interest Amount	(1.6)
3. 2016 Incentive	3.6
<b>Total 2017-2019 AA Amount</b>	<b>(34.1)</b>
<b>2017-2019 BA Amount</b>	
4. 2016 Ending AA Amount	0.7
5. 2016 Ending BA Amount	1.3
6. 2016 AA and BA Interest	0.6
<b>2017-2019 BA Amount</b>	<b>2.6</b>
<b>Total 2017-2019 AA and BA</b>	<b>(31.5)</b>

Figures presented in the above table may have rounding of \$0.1 million.

[Exhibit N-1, p. 7]

[11] As noted in last year's *2016 AA/BA Decision*, the 2016 FAM AA and BA riders of the Large General, Medium Industrial and Large Industrial rate classes were capped at their 2015 FAM AA and BA rider levels, respectively, with the remainder deferred for recovery in future years. The proposed 2017-2019 AA/BA amounts in the present application exclude the \$3.8 million owed by the Large General, Medium Industrial and Large Industrial rate classes. This amount was incorporated for recovery from these classes under the 2017-2019 BCF components set in the *2017-2019 BCF Decision*. As noted in this application, in order to ensure that NSPI recovers these amounts, the FAM BA balance must continue to show these amounts as outstanding until they are properly reflected in the 2020 FAM BA riders, at which time they will be offset by a 2020 FAM AA credit arising from recovery of these costs through the BCF rates during

the Rate Stability Period. Thus, these amounts will be tracked through the 2017-2019 Rate Stability Period, and trued-up in 2020.

[12] For the reasons which follow, the Board approves the 2017-2019 AA and BA balances, as submitted by NSPI on November 14, 2016, subject to this Decision. As explained later in this Decision, the AA/BA amount, with interest, will be refunded to customers as a one-time credit, no later than April 30, 2017. The AA and BA Riders will be set at zero during the Rate Stability Period as a result of the one-time credit.

## **2.0 ANALYSIS AND FINDINGS**

### **a. Board Counsel Consultant Evidence and Intervenor Submissions**

[13] In addition to NSPI's filings, Board Counsel consultant, The Liberty Consulting Group ("Liberty") filed evidence. Submissions were filed by the Consumer Advocate ("CA"), the Small Business Advocate ("SBA") and the Industrial Group.

### **b. AA/BA Calculations**

[14] Liberty undertook a review of the AA/BA calculations:

We found NS Power's proposals for and calculations supporting the treatment of AA/BA balances generally appropriate. Examining again the issue of last year's November and December forecasted recovery imbalances produced no concern about this year's balances.

[Exhibit N-6(C), p. 4]

[15] None of the Intervenor took issue with the calculations of the AA/BA over-recovery amounts as submitted by NSPI.

## **Findings**

[16] The Board finds that NSPI has appropriately calculated the AA/BA balances.

**c. Manner of Refunding the Credit**

[17] Both the CA and SBA recommended that the over-recovered AA/BA amounts be returned to customers through a one-time credit in the first quarter of 2017, on condition NSPI is able to allocate the credits in an equitable manner.

[18] Likewise, the Industrial Group expressed a preference for early return of the credit:

The preference for the Large Industrial and Medium Industrial customers is the option which refunds 2016 AA/BA monies overpaid immediately in 2017 by way of credit, continues the stable stepped increases and moderates the forecasted 2020 increase.

The Industrial Group notes that the AA/BA amounts include a forecasted element for November-December such that any credit is ultimately subject to another true-up. It is understood that NSPI will continue to track and report over/under-recoveries in its regular FAM reporting notwithstanding that hearings do not take place.

[Industrial Group Comments, November 30, 2016, p. 4]

[19] NSPI, in its Reply Submission, confirmed that it was prepared to apply the credit in the manner requested by the Intervenors. NSPI has also proposed to resolve concerns about the November-December 2016 forecast and true-up by agreeing to include actual AA and BA amounts for November-December in the credit.

[20] NSPI stated:

NS Power has spoken to the SBA, CA and IG and they support the inclusion of the actual AA and BA amounts from November and December 2016 to be included in the credit to customers. This can be achieved due to the timing of when the credits will be applied.

If the Board directs NS Power to return the 2016 AA/BA amounts to customers in the form of a one-time credit, NS Power proposes to do so based on customer energy consumption in 2016 and will apply the credit no later than April 30, 2017. The April date is required as NS Power needs to reprogram its customer information system in order to provide such credit. NS Power will provide further details as part of its AA/BA compliance filing on December 15, 2016.

NS Power notes that the FAM Audit settlement agreement is predicated on \$3 million of the 2016 FAM incentive amount being returned to customers. Subject to Board approval of that settlement, this will be included in the credit to customers.

The Company also wishes to point out that the return of the 2016 AA/BA amounts will not affect the AA/BA amounts in rates going forward into the Rate Stability Period. The rates in effect in the Rate Stability Period will be as reflected in NS Power's Fuel Stability Plan Compliance Filing and the FAM AA/BA riders will be set at zero as a result of the credit.

[NSPI Reply Submission, p. 2]

## Findings

[21] The Board directs NSPI to return the 2016 AA/BA amount, with interest from January 1, 2017, to the payout date to customers, in the form of a one-time credit based on energy consumption no later than April 30, 2017, in the manner outlined by NSPI in its Reply Submission.

### d. FAM Audit Settlement Agreement

[22] In the 2016 FAM Audit hearing (M07611), held on Monday, December 5, 2016, the Board gave oral approval of a Settlement Agreement among NSPI, the CA, the SBA and the Industrial Group. Clause 2 of Appendix A of that Settlement Agreement reads as follows:

2. NS Power agrees to forgo \$3 million of its entitlement to the 2016 FAM incentive payment, which will be credited to FAM customers through the AA/BA process.

[Exhibit N-21, p. 3]

[23] No other party to the FAM Audit proceeding objected to the terms of the Settlement Agreement. The Settlement Agreement is predicated on \$3 million of the FAM incentive amount being returned to customers. The Board understands customers wish that \$3 million be treated in the same manner as the AA/BA over-recovery.

## Findings

[24] The Board directs NSPI to return to customers the \$3 million referred to in Clause 2 of Appendix A of the Settlement Agreement in the same manner and at the same time as the return of the 2016 AA/BA amounts.

**e. Treatment of Fuel Costs from Customers Who Migrate Their Load from FAM to Non-FAM Classes**

[25] In February 2015, the Board approved an amendment to the FAM Plan of Administration and the FAM Tariff relating to the responsibility for outstanding fuel costs by FAM customers migrating all or a portion of their load to non-FAM classes. NSPI advised that one Large Industrial customer moved a portion of its load from the Large Industrial Rate to the 1P-RTP class. Four municipal customers have migrated a portion of their load to the Open Access Transmission Tariff and those same four customers are expected to migrate more of their load.

[26] In its evidence (Exhibit N-1), NSPI provided an estimate of the migrating customers' deferred cost obligations based on actual records up to October 2016 and forecasts for November and December 2016.

**Finding**

[27] The Board approves NSPI's methodology for calculating the migrating customers' fuel cost responsibility and directs NSPI to file updated numbers and clarification of how such balances will be tracked and assigned through 2017-2019 as part of the Compliance Filing.

**3.0 TIMING AND AMENDMENT OF THE AA/BA PROCESS**

[28] In past AA/BA proceedings, various stakeholders have raised concerns about the process for approval of the annual AA and BA amounts. The primary issue involves the AA calculation methodology, and its impact on the process.

[29] In its *2015 AA/BA Decision*, the Board referred the issue to NSPI and the FAM Small Working Group to canvass a resolution.



[30] In the *2016 AA/BA Decision*, 2015 NSUARB 257, the Board, respecting this unresolved issue, stated:

[33] Accordingly, the Board directs that NSPI consult its stakeholders and report to the Board, no later than May 31, 2016. Any resolution, whether recommended by the SWG or otherwise determined by the Board, will be decided before December 31, 2016.

[31] This issue was canvassed again in the Board's *2017-2019 BCF Decision*. The Board directed that NSPI provide an update on its consultation with its stakeholders on its AA calculation methodology and report to the Board no later than September 30, 2017.

## Findings

[32] The Board expects this issue to be resolved by September 30, 2017. Otherwise, it will adjudicate the issue.

## 4.0 OPERATION OF THE AA/BA DURING THE RATE STABILITY PERIOD

[33] The following comments from the Board's 2017-2019 BCF Decision, bear repeating:

[49] As set out in s. 13, the EPIA does not suspend the reporting or audit processes, but merely defers any hearing process on the FAM audit:

13 For greater certainty, nothing in Sections 3 to 12 restricts or suspends any reporting or auditing requirements of the Fuel Adjustment Mechanism, except that no hearing relating to an audit may occur during the Rate Stability Period other than for the purpose of setting the base cost of fuel for the calendar year 2020.

[50] The Board observes that there will be an AA/BA hearing in November 2016, before the RSP commences, to determine if there is an outstanding balance for 2016 and, if so, how to deal with the recovery or refund of that balance, as the case may be. It will also be necessary to hold an AA/BA hearing in 2019 to prepare for the end of the RSP, and any necessary adjustment for 2020 rates. At that time there will be a true-up.

[51] In the interim, for 2017 and 2018, there will be no AA/BA hearing. However, the Board directs NSPI to continue to report and track fuel spending as it does at present. The Board agrees with Liberty that this is important for reasons of transparency, as well as efficiency at the time of the 2019 hearing. The Board also agrees that during the RSP, with the exception of 2019, when there will be an AA/BA hearing, actual figures should be used, rather than estimates for the last two months of every year.

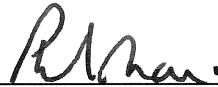
## 5.0 COMPLIANCE FILING

[34] The Board approves the calculations for the 2016 FAM AA and BA as filed by NSPI on November 14, 2016, subject to the adjustments noted in this Decision.

[35] NSPI is directed to file its Compliance Filing on or before December 15, 2016, with Intervenor comments on or before December 19, 2016.

[36] An Order will issue accordingly.

**DATED** at Halifax, Nova Scotia, this 12<sup>th</sup> day of December, 2016.



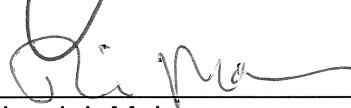
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