



April 14, 2014

**Written Submission to the NS Legislature's
Law Amendments Committee
For the Affordable Energy Coalition**

Re: Bill 41: *Electricity Efficiency and Conservation Restructuring (2014) Act*

Summary

We have been very concerned about what might happen to the major accomplishments by Efficiency NS since the election. There were promises of strengthening Efficiency NS and making its programs more accessible to low income Nova Scotians but funding was very uncertain. We believe efficiency retrofits are one of the smartest ways to reduce energy costs as prices rise but low income households cannot afford to pay for them. So Efficiency Nova Scotia's low income programs are essential to lowering energy costs for the people we advocate for.

While we have some serious concerns, we applaud the concepts behind most of the proposed changes. They will allow Efficiency NS to remain an independent organization. The funding for low income programs will be higher than before with some certainty for the next few years and the stated goal is for it to last 10 years.

However we do have some serious concerns. We believe some key wording in the act does not accomplish what it intends to accomplish. If some of the changes we are proposing are not implemented or our concerns are not dealt with in some other effective way, we believe the entire proposal as described could be at serious risk. Our concerns centre on Section 79-I which is at the heart of the proposed new system.

We will describe both the strengths of the new system and the concerns we have with some proposals for addressing those concerns. We will discuss the legislation as well as the larger plan it is part of.

What we support

1. **The competitive system:** We support the establishment of a system where Efficiency NS will compete with energy production as an efficiency supplier, **provided that some of the changes we are proposing are adopted or the issues we are raising are effectively dealt with in other ways.** If it costs a lot less to save a kwh through efficiency than it does to buy dirty coal to produce a kwh, everyone is better off: we all save money through lower costs, we're healthier through lower pollution, and we're lowering our GHGs to help ensure our children have a future. We expect Efficiency NS will be able to supply substantial programs

that are lower cost than buying coal or gas to burn. This system will retain Efficiency NS' operation as an arm's length, independently funded organization, which is one of its strengths.

2. **Government funding for major retrofits of low income homes:** We support the commitment of the current government to pay for \$12.7 million per year over the next 4 years as part of a ten year plan to provide major energy retrofits like insulation at no cost to around 24,000 low income homeowners (29,000 in all, according to the Using Less Energy plan, including the 5,000 already re-insulated). This will make a huge difference in the lives of those families. It will help them stay in their homes with the heat and lights on. It will help them avoid making choices between food and heat. It certainly won't solve all their problems even with the cost of energy but it's a smart, significant part of the solution.
3. **NS Power's pledge:** We also acknowledge the value and importance of NS Power's pledge to pay \$3.4 million on major retrofits of low income electrically heated homes as part of the ten year plan to insulate all homes owned by low income households.

Our concerns

1. **Criteria for approval and assessment of low income programs:** Regarding the legislation, we are concerned about how low income programming will be assessed and approved. It appears to us as though the UARB must approve every efficiency program and based on the criteria they must use to make their assessments, there is little room for the more costly low income programs whether they are funded by government or private donors. If this is the case, we assume it was unintentional. We recommend some wording changes to make it very clear that low income programs that are not funded under the competitive system but, will be judged on broader criteria than cost alone. We support assessment by the UARB for accountability reasons but the criteria for approval and assessment must be different from the criteria used in the competitive system. (low income programs tend to show their value other than building social capital and community importance over the long term in reduction in costs for debt collection and in building efficiency)
2. **No plan for low income renters:** The NS Power funding is for low income homeowners with electric heat. When briefed we were told that the provincial funding was also for low income homeowner using other forms of heat. Over 50% of low income households are renters. As income levels drop, the proportions who are tenants rises. There must be a plan to assist low income renters that has the same long term planning, targets and funding. Focusing on home owners exclusively magnifies the divide between rural and urban households, in that the majority of owned homes will be rural and seniors. There must be opportunities within the new system to accomplish energy efficiency for tenants and it is essential that those opportunities be supported and approved.

3. **Risks for this system - the IRP:** This system can work very well. But it faces some significant risks. The first one is the Integrated Resource Plan. This is being negotiated now. NS Power has considerable influence over that plan. Since Efficiency will be the main competitor to NS Power, NS Power may resist recognizing the need for a continued substantial role for efficiency as a source of future power. The IRP must recognize a substantial role for efficiency for the proposed new plan and legislation to work. Otherwise the new system will produce less benefit than the existing one.
4. **Risks for the system - electricity funding for low income programs:** Funding for major retrofits for low income electrically heated homes now rely on charity instead of having reliable funding through the electricity system itself, as was the case with the efficiency fee. While NS Power's pledge is valued and important, it replaces a more reliable, steady source of funding that exists now through the efficiency fee on bills. NS Power's media release stated that their \$3.4 million annual contribution *may be* renewed for up to 10 years (\$37 million total, with inflation). We trust it will last the full 10 years, but there is no legislated or other guarantee that it will. Charitable funding is exemplary and admirable but it is not as dependable as the kind of fee that exists now.

BACKGROUND

The Affordable Energy Coalition

The Affordable Energy Coalition is a group of organizations and individuals that has been advocating for practical, effective solutions to address energy poverty in Nova Scotia since 2004. Most of our members work directly with low income individuals and families who are severely affected by rising energy costs. Dalhousie Legal Aid has played a lead role in the work of the AEC, arising from its work defending many low income households and its interest in achieving systemic changes to improve the lives of the people they provide legal services to and to reduce the need for legal representation. We also believe that addressing energy poverty through efficiency addresses broader questions of health and climate change that will affect low income households as much or more than everyone.

Energy Burden for Low Income Households

Rising energy costs affect everyone but the story that really tells the tale is the combination of energy cost and income. This is referred to as "energy burden" – what % of your income does your household spend on energy?

A household in the lowest income quintile (i.e. 20% of the population with the lowest incomes – up to \$22,300) spent 11.8% of their income on energy in NS in 2011 on average, according to Statistics Canada. This compares to the average for all NS households of 3.8%. Energy prices have risen faster than incomes since 2011, especially at the low end of the income scale, so a household earning \$20,000 in 2014 certainly pays more than 10% of their income on energy. Low income households experience the highest energy burden in Nova Scotia. Their energy costs are lower because they live in smaller homes and have fewer electrical devices. But as these figures show, the % of income they pay on energy is much higher than for households with higher incomes.

These figures aren't just numbers. They have very real impacts on people's lives. When your income is already very low, paying that high % on energy means you face a much higher risk of disconnection of your electricity and stopped oil deliveries. These are the individuals and families who are most often forced to make choices between food and heat or electricity for cooking and lights or medication.

We want to be clear that low income households that are at risk are not just those who earn \$20,000 or less. That was described to illustrate the problem. In our view, the low income households who are at risk of energy poverty include all households who earn less than the before tax Low Income Cut Offs. This is about 73,000 households.¹ Not all of those households face an unsustainable energy burden, but most do.

The impact of energy efficiency programs

Increasing the energy efficiency of a home is one of the smartest, most effective ways to protect every household against rising energy costs. The previous Conservative government set up the Wheeler Commission which recommended that an independent, ratepayer funded organization be established. The previous NDP government implemented the Wheeler Commission's recommendations and created Efficiency NS as an independent, arms length organization with secure funding from the electricity system. Low income households simply cannot afford to pay for the efficiency improvements that lead to lower energy costs. To its credit, Efficiency NS spent about 30% of its residential funding from the electricity system on low income programming, providing free retrofits. Only about 30% of Nova Scotian homes use electricity for heat. The NDP government also provided Efficiency NS with taxpayer funding to pay for 100% of the costs of efficiency improvements for the other 70% of low income homeowners living in homes heated by other fuels. This funding takes the smart long term view by creating savings that will pay off year after year instead of simply subsidizing current bills.

As a result of these initiatives, over 20,000 low income renters and homeowners have received free efficient products like CFLs (Compact Fluorescent Lights) and water saving devices under their "Direct Install" program, saving each household an average of \$180/year. Almost 5,000 low income homeowners received free major energy retrofits like insulation and air sealing, saving in the range of \$500 to \$900 per household. The significance of such savings for low income households is sizeable.

Our organization was a strong supporter of Efficiency NS when it was established, for these reasons and the funding and programs targetted at low income households were an essential part of the success of Efficiency NS.

¹ This figure is calculated from a Statistics Canada 2010 figure of 114,000 individuals in LICO households of all sizes. The 29,000 target in the "Using Less Energy" plan is from DCS' 2013 Mandate.

Low income tenants left out in the cold

We had one major concern though: the major energy retrofits were almost entirely limited to low income homeowners. Over 50% of low income households in NS are tenants. The lower the income, the higher the % are tenants. Many live in leaky, poorly insulated old buildings. The Direct Install program has been a real benefit to them but they are not receiving the same substantial help provided to homeowners for major re-insulation. It is more complicated because there is both a landlord and a tenant involved. But this problem can be solved and should not stand in the way of a substantial effort to create substantial energy savings for low income renters.

Bill 41: Electricity Efficiency and Conservation Restructuring (2014) Act

The Liberal government promised to change the current system by removing the Efficiency Fee from electrical bills. They also promised to strengthen Efficiency NS. We were very concerned that removing the Efficiency Fee would compromise the independence and effectiveness of Efficiency NS.

Regarding the re-structuring of the delivery and payment for Efficiency services in NS as proposed in this bill, we applaud the government for creating a competitive system where Efficiency NS will provide Efficiency services in competition with energy generation. If it costs less to save a kwh than it does to burn coal to generate a kwh, everyone will save and valued efficiency services will continue to be provided. We believe this system will benefit all consumers including low income households. It provides a sound method for ensuring high quality, cost effective efficiency services continue to be delivered and a culture of efficiency can continue to grow.

Although it is not part of this bill, we must also mention that we are very pleased to see that the government is committed to funding major energy retrofits for low income homeowners over the long term. Our understanding is that they are increasing the proportion of taxpayer funding that will be used for this purpose from about \$5.5 million to \$12.7 million per year. There is a goal of installing deep energy retrofits in about 29,000 homes over 10 years, including the 5,000 already completed, using the combination of taxpayer funding and a charitable donation from NS Power. This kind of long term commitment is smart and effective. The cumulative impact will be substantial. With the new competitive system for supplying most efficiency services, the funding to pay for low income programs is more necessary. Low income programs must fund installation at 100% of costs compared to most programs that are cost-shared, so they are inherently more expensive and less competitive. The government and NS Power funding ensures that many of those who need better insulated homes the most will continue to have major retrofits.

Concerns and Recommendations:

Having outlined what we see as strengths in the proposed new system, we would now like to describe our concerns and recommendations.

1. Ensure that Efficiency NS competes on an equal basis

The following recommendations are meant to address the central element of the new competitive system. The existing wording is vague and we believe it does not fully accomplish what it was designed to accomplish.

Recommendation:

Existing

79I (1) On and after the Implementation Date, Nova Scotia Power Incorporated shall undertake cost-effective electricity efficiency and conservation activities that are reasonably available in an effort to reduce costs for its customers.

Amended

Amend subsection 1 to read:

79I (1) On and after the Implementation Date, Nova Scotia Power Incorporated shall undertake **all** ~~cost-effective~~ electricity efficiency and conservation activities that are lower in cost than the cost of fuel for generating electricity and that are required to fulfill demand side management targets developed by the Integrated Resource Plan, and that are reasonably available in an effort to reduce costs for its customers.

Add 2 new subsections:

(2) The UARB shall use a Program Administration Cost Test comparing the costs to the system for energy efficiency and conservation activities to the costs to the system for generating electricity, to ensure a fair and balanced comparison is made between the costs and benefits of energy efficiency and conservation activities versus electrical generation activities to deliver electric service

(3) for greater clarity, the UARB shall not use a Total System Cost Test which includes program costs paid by government, by charitable donors or by consumers who pay for part of the cost of a service they purchase for their own direct benefit

(4) the UARB shall apply the Program Administration Cost Test to energy efficiency and conservation activities supplied by the franchise holder or supplied directly by Nova Scotia Power

2. Make sure low income programs are not discriminated against

Low income programs should not be separated from the general electric Energy efficiency portfolio, and there still should be opportunities for ENS to provide further funding for low income programs under the umbrella of a cost-effective portfolio of efficiency activities. Or else the well-meaning charitable

contribution by NS Power would result in a budget cap and leave the program vulnerable to a potential NSP decision to no longer provide the contribution.

We have some concern that the authority given to the UARB to approve new efficiency programs based on the narrow grounds of cost competitiveness could inadvertently disqualify efficiency programs from public and charitable donations. We are certain this is not the intent.

Recommendation:

Add an additional subsection at the end of section 79I:

Nothing in this section or anywhere else in this Act shall interfere with the ability of the franchise holder to provide efficiency services paid for by sources other than NS Power as a recoverable cost based on criteria that include social benefits. The UARB may be assigned to evaluate the effectiveness of such programs based on any broader criteria as may be determined by regulation.

3. Fund a plan for low income tenants

We have a major concern that low income tenants will continue to be left out in the cold. The explanations given to us have been that the funding for major retrofits for low income households will concentrate on homeowners. This has been the case in the past.

As stated, over 50% of low income households are renters. We believe it is essential that government, NS Power and Efficiency NS set an aggressive, realistic target to install major retrofits in low income rental accommodation in addition to homes owned by low income households and a plan to make sure this target is met.

4. Change Section 67 of the Public Utilities Act

Low income households face a number of severe challenges in their attempts to secure the heat and electricity that are essential to life in modern times. These challenges start with an excessive energy burden – energy costs that are too high as a percentage of income. This underlying problem leads to unsustainable arrears, disconnection, and administrative fees. We have been working with NS Power over the last year and a half to deal with many of these problems and we have made good progress. But NS Power faults Section 67 of the Public Utilities Act for not being able to consider a realistic, effective solution to arrears management issues. Section 67 states that “All tolls, rates and charges shall always, under substantially similar circumstances and conditions in respect of service of the same description, be charged equally to all persons and at the same rate”. The full text is appended to this document. It allows the UARB to declare what constitutes “substantially similar circumstances and conditions.” In order to move a realistic and effective Arrears Management Program (AMP) forward we would suggest a simple amendment to Section 67 as previously introduced by the Honourable Michel Samson through a private members bill² as follows:

Be it enacted by the Governor and Assembly as follows:

1 Section 67 of Chapter 380 of the Revised Statutes, 1989, the *Public Utilities Act*, is amended by adding immediately after subsection (1) the following subsection:

(1A) Notwithstanding subsection (1) the Board may approve a schedule of tolls, rates and charges for a service by a public utility that provides for different tolls, rates and charges for residential customers or classes of residential customers in relation to the financial income of those customers.

5. **General concerns**

While we appreciate that NS Power has made a public commitment to fund major retrofits of homes owned by low income families to the tune of \$37 million for up to 10 years, we see this as a less reliable source of funding than the funding for low income programming that exists under the current system with funding provided by an efficiency fee. This has shifted the funding from a regulated, reliable, predictable source to a charitable source that depends on the continued good will of NS Power. In their news release they said their annual \$3.4 million contribution may be renewed up to 10 years. We would suggest to ensure further energy efficiency measures in the low income community, that the legislation set a minimum of 3.7 million per year to be used for low income energy efficiency programs or a percentage of the overall energy efficiency measures be allocated to low income households.

APPENDIX

Excerpt from the Public Utilities Act

Equal rates and charges for similar services

67 (1) All tolls, rates and charges shall always, under substantially similar circumstances and conditions in respect of service of the same description, be charged equally to all persons and at the same rate, and the Board may by regulation declare what constitute substantially similar circumstances and conditions.

(2) The taking of tolls, rates and charges contrary to the provisions of this section and the regulations made pursuant thereto is prohibited and declared unlawful. R.S., c. 380, s. 67.

1 Section 67 of Chapter 380 of the Revised Statutes, 1989, the *Public Utilities Act*, is amended by adding immediately after subsection (1) the following subsection:

(1A) Notwithstanding subsection (1) the Board may approve a schedule of tolls, rates and charges for a service by a public utility that provides for different tolls, rates and charges for residential customers or classes of residential customers in relation to the financial income of those customers