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April 14, 2014

RE: Bill No. 41 Electricity Efficiency and Conservation Restructuring (2014) Act

Ecology Action Centre Submission to the Law Amendments Committee

Energy efficiency is by far the cheapest option for our electricity system and conserving energy is the key to reducing greenhouse gas emissions and protecting Nova Scotians' health. Bill No. 41 is a long-term plan that highlights the central role energy efficiency plays in building a sustainable future for this province.

Ecology Action Centre (EAC) highlights two aspects of the legislation as being keys to its positive potential:

1) The legislation maintains strong regulatory oversight for Efficiency Nova Scotia Corporation (ENSC) as the first efficiency franchise holder and ensures ENSC remains an independent agency that is accountable to Nova Scotians.

2) The legislation positions efficiency as a competitive player in Nova Scotia's electricity system and lays the groundwork for that competitive potential to build.

Having acknowledged the strengths of Bill No. 41, EAC submits that certain amendments to the Act itself along with interventions in related external processes are necessary to safeguard the principle tenants of the proposed legislation.

Oversight

Bill No. 41 is clear that the Nova Scotia Utility and Review Board (UARB) shall maintain general oversight of the efficiency franchise holder:

> 79G(1) The Board has the general supervision of a franchise holder in relation to the franchise holder's franchise activities, and may make all necessary examinations and inquiries, keep itself informed as to the compliance by the franchise holder with the law and obtain from the franchise holder all information necessary to enable the Board to fulfil its duties.

Within this role, the UARB shall establish appropriate levels of efficiency to be undertaken by the franchise holder:

> 79H The Board shall determine the cost-effective electricity efficiency and conservation activities that must be undertaken for the purpose of this Act.

While these sections suggest independent oversight and evaluation of the franchise holder by the UARB, EAC submits that the UARB will rely heavily on at least two sources of externally-influenced information to conduct its oversight and evaluation.

The first of these sources is the test used to calculate the cost-effectiveness of efficiency programs. For instance, a Program Administration Cost (PAC) Test would directly compare the costs to the electricity system for efficiency and conservation activities with the costs to that system for electricity generation, whereas a Total Resource Cost (TRC) Test would include efficiency and conservation program costs paid by government or charitable contributors who pay for the cost of a service they purchase for their own direct benefit. Currently, the PAC Test is the most fair and accurate means of assessing the cost-effectiveness of efficiency programs. Yet the Act currently provides little guidance to UARB on what kind of test it should use to calculate cost-effectiveness, creating a vulnerability where an unfair an inaccurate tool such as the TRC Test may be applied.

The EAC recommends the following clause be added to the Act:

> **79H(a) The UARB shall ensure a fair and balanced comparison is made between the costs and benefits of energy efficiency and conservation activities versus electrical generation activities by using the most current and appropriate cost-effectiveness test available.**

The second source of information the UARB will make extensive use of in overseeing the activities of the franchise holder is the Demand Side Management (DSM) Potential Study resulting from the 2014 Integrated Resource Plan (IRP) process. The 2014 IRP process is currently underway and DSM Assumptions provided by Nova Scotia Power Inc. (NSPI) along with various stakeholder comments on those assumptions point to another significant vulnerability in the Act. NSPI has a high-level of control over the IRP process and therefor the IRP results. Stakeholders in the IRP process have highlighted the fact that DSM assumptions provided by NSPI do not seem to have been derived from any credible source (see Appendix A). As the UARB will use the results of the IRP to conduct its oversight of the efficiency franchise holder, a situation may arise where NSPI is indirectly positioned to have greater influence in that oversight than Bill No. 41 intends.

The EAC recommends that Government intervene in the IRP process to ensure DSM assumptions and modelling be conducted by the UARB consultant, Synapse, to ensure the resulting DSM Potential Study is a creature of the independent regulatory body that will oversee the efficiency franchise and not NSPI.

A final concern related to oversight is the decision to make Clean Nova Scotia (CNS) responsible for delivery of low-income programs paid for by the charitable contribution of NSPI. This would effectively make CNS both a funder and contractor of ENSC as the first franchise holder. There are no provisions in the Act to ensure independent and accountable regulatory oversight of CNS as a low-income program provider.

The EAC recommends that all funding for efficiency activities flow through the publicly accountable and independently regulated efficiency franchise holder.

Competitiveness

Bill No. 41 would require NSPI to purchase cost-effective electricity efficiency as determined by a negotiation process between NSPI and ENSC overseen by the UARB:

> 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.

Within this process, it is assumed the UARB will ensure Nova Scotians are benefiting from as much cost-effective efficiency that is competitive with generated sources of electricity. However, the EAC submits that the Section is too vague to give the UARB the guidance required to guarantee that level of competitive evaluation.

The EAC recommends the following clause be added to the Act:

> **79I(a) The UARB is to ensure a fair and balanced comparison is made between the costs and benefits of electricity energy efficiency and conservation activities verses supply-side activities to deliver electric service.**

Low Income Efficiency

While aspects of the legislation emphasize the importance of targeting efficiency programs to low-income homeowners, EAC emphasizes that much work remains to be done determining how the 50% of low-income individuals that rent their homes in Nova Scotia can reap the benefits of energy efficiency.

EAC also submits that moving the provision of efficiency programs to low income Nova Scotians entirely from the ratepayer-funded activities of the efficiency franchise to activities funded by government and charitable donations potentially threatens the consistency and quality of those programs in the long-term.

The EAC generally supports the recommendations of the Affordable Energy Coalition on amendments to Bill No. 41 to improve and protect efficiency programs for low income Nova Scotians.

Sincerely,

Catherine Abreu

Energy Coordinator
Ecology Action Centre

Appendix A
EAC Submission to the UARB on DSM Assumptions in the 2014 IRP

Nicole Godbout
Regulatory Counsel
Nova Scotia Power Incorporated
P.O. Box 910
Halifax NS B3J 2W5

April 10, 2014

Dear Ms. Godbout,

RE: M05522 – 2014 Integrated Resource Plan
Ecology Action Centre Comments on Draft IRP DSM Assumptions

While the official period for comments on Draft IRP DSM Assumptions has passed, the Ecology Action Centre (EAC) respectfully requests consideration of the following proposal and comments.

Having reviewed the Draft IRP DSM Assumptions and subsequent comments from various stakeholders, the EAC finds that it is unclear where the values associated with the draft DSM scenarios derive from. **EAC submits that the process for developing DSM Assumptions must be more closely guided by the Utility and Review Board and Board Consultants so as to ensure adequate and impartial consideration of Demand Side Management as a resource within the IRP.**

Proposal

EAC proposes that Board Consultants, Synapse, develop the DSM Assumptions to be used in modelling in collaboration with NSPI and ENSC. It is critical for this process to be lead by a third-party such as the Board Consultant in order to avoid conflicts of interest.

Comments on the Draft IRP Assumptions as presented follow.

Comments on Draft IRP DSM Assumptions

The Ecology Action centre has reviewed the proposed DSM assumptions and is deeply concerned that the proposed assumptions conflict with the terms of reference for the IRP and risk wasting this opportunity to fairly evaluate DSM in conjunction with other supply-side options over the study period. In particular, the no-regrets perspective, at least for the ratepayer and the environment, is at risk.

We share the concerns expressed by the Small Business Advocate that the assumptions do not minimize the cumulative present worth of the annual revenue requirement, the central objective of the IRP.

In addition, we are concerned that the proposed assumptions set aside the basic objective to meet energy requirements "in a cost-effective, safe and reliable manner across a reasonable range of foreseeable futures". In particular the proposed assumptions disregard item 2 of the scope of the IRP which calls for the "most likely" values and "projections of plausible high and low values" to be considered. Our specific concerns are as follows:

DSM Levels

The proposed low DSM case of 50% of the DSM Study low case is simply implausible. DSM levels of 50% of 50% of the current base rate (equalling 25% of our present baseline level) as pointed out by ENE, is extremely unlikely to be a cost effective course of action given the demonstrated success of DSM to date and accepted assumptions around fuel and supply side generation costs, none of which are assumed to fall by 75%.

Considering that costs are "most likely" to continue to rise (see slide 58, Natural Gas Price Assumptions, slide 62, Long Term [Import] Price assumptions and slides 66 and 67, Solid Fuel Price Assumptions) achievable cost effective DSM options will continue to increase, the low case for the IRP should be no lower than 75% of present DSM levels.

Likewise, for a mid-range assumption, a conservative and no regrets level of DSM should simply be the present baseline level.

We agree that the High case from the DSM study is acceptable.

DSM Cost Assumptions

Here again, the proposed assumptions are in conflict with the terms of reference by including non-utility costs for DSM and thereby masking potential DSM benefits. Moreover, in light of the legislative changes to the relationship of efficiency programs in the public utility act announced Monday April 7, the IRP and the utility should concern themselves simply with the DSM costs borne by the utility. It will be the responsibility of ENSC, in consultation with the Board and stakeholders, the utility among them, to deliver energy demand reductions for the expected costs. Consistent with the stated intent of the IRP framework, resource needs should be directional and not prescriptive. Participant expenses are simply not relevant to comparing cost effective DSM options within the IRP.

Avoided Cost Methodology

Here again EAC supports the view of the SBA. The DSM study provides sufficient information to model DSM as a resource, with a variable cost curve, or at least multiple discrete levels. Only by integrating DSM within the resource selection process will the IRP fully inform the Preferred Resource Plan. The models may identify differing levels of DSM over the study period that are cost effective. Or the model may identify that full application of cost effective achievable DSM minimizes costs. Or not.

What is clear is that without comparing DSM as a resource fairly with others, by simply comparing potential resource plans with and without various fixed levels of DSM across the study period, the IRP will not reveal the benefits, costs or risks of DSM in comparison to other potential resources and we will be no further along than we were in 2007 and 2009.

Cost of Capital

Use of NSPI's WACC as the discount rate for DSM exaggerates the risk associated with DSM. Compared to the long life associated with capital assets (for generation assets see slide 41 - 50 plus years), DSM programs on a 1 to 3 year planning cycle are far more nimble and able to respond to variations in their performance. As such their risks are lower as should be their discount rates.