

LAW AMENDMENTS COMMITTEE

Red Room, Province House

Monday, April 14, 2014

Bill #41 - Electricity Efficiency and Conservation Restructuring (2014) Act

12:00 noon

1. Donna Franey
Member, *Affordable Energy Coalition*
2. Allan Crandlemire, CEO
Efficiency Nova Scotia
3. Catherine Abreu
Energy Coordinator, *Ecology Action Centre*
Regional Coordinator, *Atlantic Canada Sustainable Energy Coalition*

Bill #32 - Forestry Agreement Statutes Repeal (2014) Act

No representation

Bill #33 - Fair Registration Practices Act (amended)

No representation

Bill #34 - Notaries and Commissioners Act (amended)

No representation



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

Good afternoon everyone. It's a pleasure to be here and outline our support for Bill 41 – An Act respecting Electricity Efficiency and Conservation.

Before I walk through my comments, I want to first express how much we appreciate the input and feedback we've had from elected officials of all political parties on our work.

As you likely know, members of the Efficiency team – which includes the many businesses that provide energy efficiency services under the Efficiency Nova Scotia banner – work in your communities to make homes, businesses, apartments and institutions as efficient as possible. And to help get the word out about energy efficiency, members of my Efficiency team have met with many of you and staff in your constituency offices.

What I can say with confidence is that energy efficiency – helping Nova Scotians lower their power and oil bills – is something that has received widespread support.

While our visits have had a great reception to date, the one piece of advice we consistently receive is to do more outreach and promotion to ensure all Nova Scotians know how we can help them save.

As the province with some of the highest energy costs in the country, we are extremely proud to play a role in helping Nova Scotians better control these costs. And you have my commitment that we'll do all we can to make more Nova Scotians aware of how they, too, can take control of their energy costs.

Now, onto the business at hand: Bill 41. Let me repeat what I said at the media briefing earlier this week. Bill 41 is a big step in the evolution of energy efficiency.

Many of you would know the long journey energy efficiency has taken in a few short years in Nova Scotia: from part of the Department of Energy to a government agency, to being run temporarily by Nova Scotia Power, to an independent non-profit organization.

The most recent evolution – Bill 41 – is significant in that energy efficiency is now positioned – in legislation – as an energy supply which Nova Scotia Power MUST purchase if it's the most cost-effective source – and purchase it at levels affordable to Nova Scotians.

This is significant. Bill 41 has essentially created Canada's first energy efficiency utility which sells 'saved energy' to Nova Scotia Power – just as a wind farm or supplier of coal would.

Bill 41 entrenches efficiency and conservation in legislation as a vital part of the electricity mix that Nova Scotia Power must use. Coal, wind and natural gas must now compete against energy efficiency. With efficiency being the lowest-cost energy option, this is a big win for ratepayers.

What's more, it's expected this new structure will fix the HST issue. To date, the Canada Revenue Agency has not allowed us to claim Input Tax Credits for our work, meaning Nova Scotians have been taxed twice for energy efficiency efforts. This change in structure will make energy efficiency an even more cost-effective energy option. Again, this is good news for ratepayers.

I fully understand that the notion of selling something you can't see - saved energy - isn't easy to wrap one's head around. What's amazing is how ready Nova Scotians are for this. The fact that we even have a Bill 41 is evidence of this. The legislation - along with the supporting long-term plan - secures a long-term stable, future for energy efficiency in Nova Scotia. As the lowest cost, cleanest source of energy there is, this is good news for all of us.

There is also a significant, long-term commitment to help low-income Nova Scotians with their energy costs. In our visits to communities from one end of the province to the other, and in the tens of thousands of phone calls we receive every year, we know this investment is needed - and wanted - and will give back for years to come.

I want to assure you - that while these are big changes, for our customers it will be business as usual.

The same local and independent businesses which deliver energy efficiency services will have the same opportunity they've had over the past few years. In fact, many of these businesses have taken this opportunity and have grown; some have expanded their services to jurisdictions outside the province.

And we know of many more that want to do the same. In fact, the 60 businesses that recently participated in an economic impact study said they plan to grow eight per cent per year over the next five years.

That's five times the rate of anticipated economic growth in Nova Scotia.

The legislation and the long-term commitment will give them the confidence to make the investments they want to make to grow.

I also want to assure you that the new organization will have the same focus on customers-first.

A focus that has led to a 90-plus per cent satisfaction rate from the 150,000 participants in our first three years.

Our customers, your constituents, will still call the same 1-877- 999-6035 or visit our same website to access ways to reduce their costs. They will work with the same employees and small businesses that they always have.

Let me close by saying that Nova Scotia is leading the way in saving energy. Energy not used is energy not paid for. This year, Nova Scotians will collectively pay \$78 Million less on their power bills... because of energy efficiency. These savings continue year after year - and will keep growing. And this investment in savings will continue to add jobs and grow economic activity across the province.

You have my commitment that we'll continue to collaborate with our many stakeholders to reach energy efficiency's full potential to contribute to a more prosperous, sustainable Nova Scotia. I believe Bill 41 helps us get there.

Thank you.

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 and 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 therefore 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

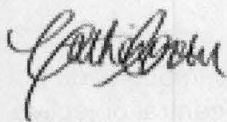
While aspects of the legislation emphasize the importance of targeting efficiency programs to low-income homeowners, EAC emphasizes that much work remains to be done determining how the 50% of low-income individuals that rent their homes in Nova Scotia can reap the benefits of energy efficiency.

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.



Energy
Office of the Minister

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April 14, 2014

Mr. Brian Gifford
brian.gifford@eastlink.ca

Dear Mr. Gifford:

Thank you for your interest in the newly developed program for Efficiency Nova Scotia.

I understand from your comments and letter to me that you want to ensure that renters can also benefit from the program and that some kind of universal service program will be considered by government.

I wish to assure you that the merits and possibilities of a universal service program or other ways to assist low income power ratepayers is part of our electricity review. We are working to identify various options for public discussion as well as examine how many people would be impacted by various options. There will also be a chance to submit additional ideas for comment.

I agree with you that it's important that we have efficiency programs designed for low income renters. We have assurances that the multi-unit residential program which targets low income neighbourhoods will continue. It has been suggested that a minimum percentage of funds should be included in the legislation being currently considered. The bill is structured to allow the utility and review board the flexibility to do exactly this, but does not prescribe any percentages for any area as from year to year there would be issues with uptake, capacity, and so forth. Nonetheless, every year all ratepayers will benefit from the current efficiency tax not being on their bill and the elimination of HST costs being passed on to ratepayers.

As this bill is only related to the electricity programs funded by way of fuel, the provincial efficiency funding and the low income funding being paid by Nova Scotia Power shareholders is outside of the scope of this bill.

Nonetheless, I am eager for the department to work with your coalition and Efficiency Nova Scotia to address the very real issues of low income families when it comes to energy affordability, including the unique challenges associated with ensuring funding aimed at supporting renters actually benefits them.

Sincerely,

Andrew Younger
Minister

c: Donna Franey

LAW AMENDMENTS COMMITTEE

Red Room, Province House

Wednesday, April 16, 2014

Bill #41 - Electricity Efficiency and Conservation Restructuring (2014) Act

(deferred from previous meeting)



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April 15, 2014

Minister Diab and Members of the Law
Amendments Committee

**Subject: Bill No. 41 – Electricity Efficiency and Conservation Restructuring (2014)
Act**

The Department of Energy has reviewed the comments and proposed amendments from the Affordable Energy Coalition and the Ecology Action Center. We would like to thank these groups for their thoughtful submissions and participation in the legislative process.

The Department anticipates that a number of the issues raised by these parties will be considered in the public consultation process identified in the Province's recent amendments to the *Electricity Act* last fall. This Electricity Review is currently underway, and was noted in correspondence I recently sent to the Affordable Energy Coalition in response to the issues they have raised. A copy of this letter is attached for your review.

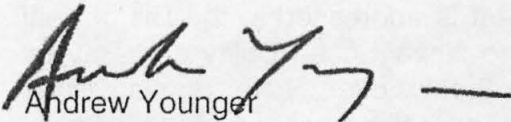
That being said, the Department of Energy does not believe the proposed amendments to Bill 41 are necessary or appropriate. Generally speaking, the proposed amendments deal with issues that are outside of the scope of what is addressed in the Bill or deal with issues that are best left to the discretion of the Nova Scotia Utility and Review Board, which will retain independent oversight authority over Nova Scotia Power Incorporated, and will be vested with similar authority over the newly created electricity efficiency and conservation franchise.

The issues raised by the two parties are grouped together into themes:

Amendments to 79I and 79H to address perceived issues around the franchise holder's ability to compete with NSPI's other resources, and manner in which efficiency and conservations costs will be assessed.	<i>Section 79H of the Bill vests the Utility and Review Board with the authority to "determine the cost-effective electricity efficiency and conservation activities that must be undertake for the purpose of this Act". The Board is an expert tribunal that will interpret the provisions of the Act based upon its specialized knowledge and in the context of evidence before it in a particular proceeding. The Department believes that the current language provides the Board with the appropriate flexibility to fulfill its mandate.</i>
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Amendment to Section 67 of the Public Utilities Act	<i>Generally speaking, section 67 of the Public Utilities Act requires that customers pay the same rate for the same service. This section has nothing to do with the amendments in Bill 41. The amendment requested has significant policy implications, and would have other impacts on the regulation of electricity rates in Nova Scotia.</i>
Amendment to add statutory minimum amount for Low Income Program funding	<i>The bill is structured to allow the UARB the flexibility to consider what is in the best interest of ratepayers, and does not require specific expenditures on particular electricity efficiency or conservation activities. This permits the Board to adapt activities based on the evaluations of program effectiveness, and changing needs and circumstances over time. The proposed amendment would limit the Board's discretion and its ability to ensure overall cost effectiveness.</i>
Amendment to require all funding to flow through the efficiency franchise holder.	<i>Efficiency Nova Scotia is and will remain the point of contact for efficiency programs in Nova Scotia. Clean Nova Scotia has been the delivery agent for Efficiency Nova Scotia for a significant portion of previous low income programs. The commitment is that all low income, electrically heated homes, in Nova Scotia will receive free deep upgrades over a maximum period of 10 years. The terms of this commitment, much like the commitment for non-electrically heated homes, is outside the scope of this bill.</i>

Sincerely,


Andrew Younger
Minister of Energy