

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE GAS DISTRIBUTION ACT

- and -

IN THE MATTER OF AN APPLICATION by **HERITAGE GAS LIMITED** requesting
Enhancement of its Existing Residential Retro-Fit Assistance Fund

BEFORE: Peter W. Gurnham Q.C., Chair
Kulvinder S. Dhillon, P. Eng., Member
Murray E. Doehler, CPA, CA, P. Eng., Member

COUNSEL: **HERITAGE GAS LIMITED**
Michael Johnston

CONSUMER ADVOCATE
John Merrick, Q.C.

CANADIAN OIL HEAT ASSOCIATION – NOVA SCOTIA
CANADIAN PROPANE ASSOCIATION
Nancy G. Rubin, Q.C.

FINAL SUBMISSIONS: January 25, 2016

DECISION DATE: February 22, 2016

DECISION: Application approved subject to conditions

I INTRODUCTION

[1] On October 29, 2015, Heritage Gas Limited (“Heritage”) applied to the Nova Scotia Utility and Review Board (“Board”) for approval of an enhancement to its existing Residential Retro-Fit Assistance Fund (“RRAF”) (“Application”). In its Decision reported at [2014 NSUARB 41], the Board approved the RRAF in the amount of \$1.0 million/year. Heritage now seeks Board approval to increase the RRAF amount to \$5.0 million/year.

[2] The RRAF functions as an aid to bridge the gap between a project’s total capital requirement and the capital supported by the revenue generated by the project, in order to satisfy the Board imposed Mains Feasibility Test. The purpose of the RRAF is to allow Heritage Gas flexibility to expand the natural gas distribution system to residential areas that would otherwise not have been able to meet the Mains Feasibility Test requirements.

[3] In the Application, Heritage provided rationale for the RRAF enhancement:

The RRAF has been a successful tool allowing Heritage Gas to expand the natural gas distribution system to residential areas that otherwise would not have been able to meet MFT requirements.

Historically, Heritage Gas has had a relatively even ratio between its residential and commercial customers (i.e. 50:50 split). Going forward, in order to provide natural gas to more Nova Scotians, Heritage Gas plans to transition towards a more residential focused utility. An enhanced RRAF is imperative to enable Heritage Gas to increase its ability to address the lack of natural gas distribution to predominately-residential streets.

[Exhibit H-1, p.3]

[4] The Board notified interested parties and invited participation in accordance with a letter dated November 5, 2015.

[5] The Board received comments from the Consumer Advocate (“CA”), and from Nancy Rubin, Q.C., on behalf of Canadian Oil Heat Association – Nova Scotia

("COHA-NS") and the Canadian Propane Association ("CPA") on November 25, 2015. Heritage's reply submission was received on December 9, 2015.

[6] Based on the submissions, the Board indicated in a December 15, 2015 letter to the parties that it would explore the matter further in accordance with the following timetable:

Information Requests to Heritage:	Monday, December 21, 2015
Responses by Heritage to Information Requests:	Monday, January 11, 2016
Submissions by Interested Parties:	Monday, January 18, 2016
Reply by Heritage:	Monday, January 25, 2016

[7] Scott Rubin, on behalf of the CA, and COHA-NS/CPA submitted Information Requests ("IRs") to Heritage. Mr. Rubin filed evidence and COHA-NS/CPA made a submission. Heritage responded in accordance with the above timetable.

II ISSUES AND FINDINGS

[8] The following issues were identified:

- i. RRAF quantum, initially and ongoing
- ii. Impact on the Revenue Deficiency Account ("RDA")
- iii. Impact on rates
- iv. Competition in the marketplace
- v. Reporting

[9] Each of these issues is discussed in the following sections.

RRAF Quantum

[10] In its December 9, 2015 reply, Heritage stated that, while the RRAF is proposed to be \$5 million in 2016, it is projected to be \$3 million in 2017, \$2.5 million in

2018 and \$2 million/year thereafter. Board IR-2 questioned why the RRAF should be maintained at \$5 million/year, to which Heritage replied:

The rationale for requesting approval for up to \$5.0 million/year for RRAF projects is that it will provide Heritage Gas with flexibility in its business planning.

Based on Heritage Gas' experience to date and communication with potential customers, there is pent up demand for residential only projects. Heritage Gas does not forecast full utilization of the \$5.0 million RRAF amount in all years forecasted, but anticipates utilizing a higher RRAF amount in the near term to meet the current demands of residential customers.

[Exhibit H-4, NSUARB-IR-2]

[11] In its January 18, 2016 submission, COHA-NS/CPA argued that Heritage's need for "flexibility in its business planning" is not supported by evidence.

[12] The CA's consultant, in his January 18, 2016 evidence, provided an analysis demonstrating that increasing the RRAF to \$5 million/year would result in a lower overall rate base per customer and so would, in his opinion, be beneficial not only to customers served by the RRAF, but also existing customers. He cautioned, however, that after the year 2020 this might not be the case due to the rapidly increasing cost of adding new residential customers.

[13] In its January 25, 2016 reply, Heritage agreed with Mr. Rubin's analysis, but noted that, while the rate base per customer calculations were somewhat optimistic, they correctly indicate a downward trend.

[14] The Board notes that maintaining the RRAF at \$5 million/year does not imply that Heritage is obliged to fund RRAF projects up to that amount. On the other hand, if the Board approved a lesser amount for the latter years, Heritage might well need to return to the Board with a request to increase the amount, depending on the success of the program. Further, the Board is satisfied that there are sufficient

safeguards in place, including annual reporting, to ensure that RRAF projects are carefully selected.

[15] In the Board's view, setting the RRAF at a constant \$5 million/year is reasonable. Ongoing Board scrutiny will determine if the RRAF fund is not used appropriately. The Board can and will deal with any such situations if and when they arise.

[16] The Board accepts the CA consultant's analysis and approves setting the RRAF at \$5 million/year through the year 2020. If Heritage wishes to extend the RRAF beyond that date, the Board will consider an application to do so in 2020. The Board notes that the evidence of Mr. Rubin was very helpful to the Board's understanding of this issue.

Impact on RDA

[17] In its Application, Heritage stated that, "The net impact of increasing the RRAF annual maximum amount is an extension of the RDA recovery by less than two years while providing significantly more residential customers with access to natural gas."

[18] COHA-NS/CPA expressed concern that the RDA recovery would be extended and the increased RRAF "runs counter to the stated goal to retire the RDA". COHA-NS/CPA also stated "Anything which increases the RDA, rather than decreases it should be carefully scrutinized to determine if it is necessary and reasonable."

[19] The quantum and eventual retirement of the RDA have been the subject of prior hearings. The Board notes that Heritage's RDA forecast, including a \$5 million/year RRAF, shows a very small rise in 2016, with a levelling off in 2017, followed by declines. In the Board's view, the increase in the RDA is not significant and the

extension of the recovery period by less than two years is acceptable, given the anticipated benefits arising from the RRAF program. The Board agrees with COHA-NS/CPA regarding continued careful scrutiny of the RDA.

Impact on Rates

[20] In their November 25, 2015 submissions, both the CA and COHA-NS/CPA expressed concern that adding \$5.0 million/year to rate base would necessitate a rate increase. Heritage responded that there would be no rate increase related to the RRAF:

While future rates are expected to be impacted positively and negatively by other changes to the Heritage Gas cost of service, distribution rates have been held constant for the purposes of analyzing the RRAF enhancements in isolation. Heritage Gas has proposed to manage and mitigate any potential upward rate pressure caused by an increase in the RRAF through an extension in the RDA recovery period.

[Heritage, December 9, 2015 Reply, p.9]

[21] The Board is satisfied that there will be no impact on current rates that would be attributable to an increased RRAF.

Competition in the Marketplace

[22] In its November 25, 2016 submission, COHA-NS/CPA stated that the Sable Offshore Energy Project Gas Market Development Fund provides subsidies to encourage conversions to natural gas, and an increase in the RRAF would act as a further incentive for customers to convert.

[23] Heritage noted in its reply that, in fact, the Sable Offshore Energy Project Gas Market Development Fund was terminated on March 31, 2015.

[24] In its January 18, 2016 submission, COHA-NS/CPA argued that the Board should consider whether the increased RRAF would give Heritage an advantage in the

energy marketplace compared to home heating oil and propane and should, therefore, be considered anti-competitive.

[25] Heritage, in reply to COHA/CPA-IR-9 stated:

One of the many roles of the Board is to ensure fairness in the rates charged to customers for natural gas distribution services, therefore a part of the Board's role can be viewed as a substitute for competition in the natural gas distribution business in Nova Scotia.

Heritage Gas does not see the Board's role as a substitute for competition with all energy suppliers, those that are regulated (electricity), nor those that are unregulated (oil, propane, wood, solar, etc.).

Although Heritage Gas has a monopoly for the distribution of natural gas to residential customers in Nova Scotia, it does not have a monopoly on providing energy services, and operates in a highly competitive environment. Heritage Gas believes that it is in the public interest to provide more residential customers with access to another energy solution, particularly the one that is the most widely used energy source in other parts of Canada, and is more environmentally friendly than other energy sources.

Providing consumers with access to a new energy option does not impact the ability of well-established energy suppliers to compete in the market. If consumers do not have access to natural gas, they will not have the opportunity to consider its advantages against other energy options within the context of their particular circumstances (e.g. age and condition of heating equipment, cost of conversion, personal preferences, and environmental risks and benefits).

[Exhibit H-3, COHA/CPA-IR-09]

[26] In the view of the Board, its role in regulating Heritage is to ensure customers' rates are just and reasonable, the company has the opportunity to earn a fair rate of return and operates in accordance with the *Gas Distribution Act*. The Board does not regulate or monitor the energy marketplace as a whole.

[27] The Board makes no finding with respect to Heritage's competitiveness compared to other sources of energy, but understands propane, currently, is very competitively priced, relative to natural gas.

Reporting

[28] In his January 18, 2016 submission, the CA's consultant recommended:

I further recommend that the Board retain its existing reporting requirements on HGL for RRAF-funded projects, and add to those reports an annual calculation of rate base per customer (both incremental for RRAF projects and total for all customers). In this way, the Board, CA, and other interested parties will be able to monitor the cost-effectiveness of the RRAF on an on-going basis. If those reports were to show that the actual cost to add new customers is significantly higher than HGL has projected, then the Board could consider reducing the RRAF cap or terminating the RRAF entirely prior to 2020.

[Exhibit H-5, p.9]

[29] Heritage disagreed that additional reporting is necessary, given that there are already extensive RRAF reporting requirements.

[30] The Board agrees that additional reporting, as proposed by the CA, would be useful and so directs.

III SUMMARY OF FINDINGS

[31] The Application is approved, subject to the following:

- i. The RRAF maximum is approved at \$5 million/year through to 2020, subject to satisfactory annual reporting;
- ii. Heritage may apply in 2020 for an extension beyond that year;
- iii. Heritage shall make the additions to the annual reporting as recommended by the CA's consultant.

IV CONCLUSION

[32] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 22nd day of February, 2016.

Peter W. Gurnham

Kulvinder S. Dhillon

Murray E. Doehler