George T.H. Cooper C.M., Q.C.
Direct 902.444.8527
george.cooper@mcinnescooper.com

Purdy's Wharf Tower II
1300-1969 Upper Water Street
PO Box 730
Halifax NS
Canada B3J 2V1
Tel 902.425.6500 | Fax 902.425.6350

Our File: G-2907
March 31, 2009

Approach to Regulating
GHG and AP Emissions, Policy Division
Nova Scotia Environment
P.O. Box 442
5th floor, 5151 Terminal Road
Halifax, NS B3J 2P8

To Whom It May Concern:

Re: Comments of NewPage Port Hawkesbury Limited and Bowater Mersey Paper Company Limited on the proposed Approach to Regulating Electricity Sector Greenhouse Gas and Air Pollutant Emissions in Nova Scotia

The Nova Scotia Department of Environment (the "Department") has recently issued a discussion paper setting out a proposed Approach to Regulating Electricity Sector Greenhouse Gas and Air Pollutant Emissions in Nova Scotia ("Discussion Paper"). NewPage Port Hawkesbury Limited ("NewPage") and Bowater Mersey Paper Company Limited ("Bowater") are pleased to provide the following written comments to the Department to inform its efforts to establish regulations on Greenhouse Gas ("GHG") emissions, and to amend the existing *Air Quality Regulations* and set new Nova Scotia Power Inc. ("NSPI") emission caps for Sulphur Dioxide ("SO2") and Nitrous Oxide ("NOx") for 2015 and 2020.

Introduction

Both NewPage and Bowater agree with the Province's long-term objective, as outlined in Section 4(1) of the *Environmental Goals and Sustainable Prosperity Act*, that environmental sustainability must be fully integrated with economic prosperity. To do so, it is vital that the potential impact of proposed environmental legislation on electricity rates be taken into account.

As the Department is likely aware, NewPage and Bowater constitute the Extra Large Industrial Class of NSPI's customers. Collectively, the two companies consume approximately 20 percent of the total amount of electricity used in Nova Scotia. The cost of energy is a particularly critical component of their businesses in the pulp and paper industry, especially in these difficult economic times.

On December 19, 2007, NewPage (then known as StoraEnso Port Hawkesbury Limited) and Bowater provided comments to the Department of Energy with respect to the development of the Energy Strategy and Climate Change Action Plan. At that time, NewPage and Bowater emphasized the following broad statement in the background paper to guide Nova Scotia's Climate Change Action Plan:

> "We need to reduce greenhouse gas emissions **without increasing air pollution, or increasing the price of electricity beyond the reach of tenants, homeowners, and businesses. We need to keep the big picture in mind.**" (p. 7)

NPB's December 19, 2007 submission went on to note that, in fact, the then **current** price of electricity in Nova Scotia already presented a competitive disadvantage for industry, when compared with many other jurisdictions. Since the date of the submission, NSPI has received approval from the Nova Scotia Utility and Review Board (the "Board") for a further increase in rates of 9.3%, which took effect January 1, 2009. The tighter restrictions on the 2010 cap for SO_2 will put additional upward pressure on electricity rates, starting next year.

Consideration of Rate Impact in the Discussion Paper

NewPage and Bowater are pleased that the Discussion Paper contains sections that specifically discuss the potential effects on electricity rates of the proposed caps on GHG and Air Pollutant emissions, and that the stated Objective in the Discussion Paper is "to reduce electricity sector emissions in a manner that... has the least effect on power rates." (p. 5). However, NewPage and Bowater also note that the discussion of the proposed emission targets to date seems limited to fairly vague statements that do not appear to be backed up by a detailed financial analysis. For example, the Discussion Paper states simply at pages 10-11:

> "Prior to 2013, NSPI rates will reflect increased investment in energy efficiency and conservation. Those rates may also reflect a price differential between new renewable energy required to meet the RES and the fossil fuel generation it displaces. The rates will also reflect any investment in transmission necessary to increase the use of Nova Scotia-based renewable energy sources...
>
> The impact on electricity rates depends on a number of variables. Therefore, future costs cannot be accurately predicted..."

While future costs are indeed difficult to predict, NewPage and Bowater believe it is imperative that such factors be taken into account to the greatest extent possible in settling the overall GHG and Air Pollutant caps for NSPI in future years. However, no quantitative analysis of potential cost consequences appears to have been conducted with respect to the targets proposed in the Discussion Paper. In that sense, they may be said to be targets set without the benefit of financial analysis.

GHG Targets for 2010-2011

NewPage and Bowater recognize that Action 1 of the Climate Change Action Plan suggests the imposition of absolute caps on GHG emissions in 2010 (as well as 2015 and 2020.) The Discussion Paper proposes a GHG cap of 9.7 million tonnes in 2010 and 9.52 million tonnes in 2011 (compared to NSPI's 2007 GHG emissions of 10.15 million tonnes), for a total aggregate cap of 19.22 million tonnes of GHG within the two year period. NewPage and Bowater believe that it may be appropriate to proceed with the initial 2010 and 2011 GHG caps as proposed in the Discussion Paper. However, they note that the impacts of these early stage reductions do not appear to have been costed or analyzed. For this reason, NewPage and Bowater believe it is premature to establish fixed caps on NSPI emissions beyond 2011 at this particular time.

Developing GHG, SO2, and NOx Targets post-2011

NSPI has the capability to conduct a comparative analysis of the potential consequences to rates of various emission caps. In 2007, NSPI conducted an Integrated Resource Plan ("IRP") which involved the determination of certain baseline assumptions (including emission caps for GHG, SO2, and NOx) and the modeling of various scenarios to determine the least cost plan. The Modeling Results and Final 2007 IRP Report provide high-level information on the implications across a range of scenarios.

The Board has recently asked NSPI to update the 2007 IRP analysis, and this will occur throughout 2009 with a report to the Board in November. Therefore, NewPage and Bowater recommend that the Department work with NSPI and stakeholders as a part of the 2009 IRP process to develop and test the relative estimated cost consequences to ratepayers of different emission cap scenarios prior to introducing specific amendments to the *Air Quality Regulations* for years beyond 2011. Such quantitative information would be valuable to the Department in arriving at specific target emission levels going forward, including for SO2 and NOx, which do not currently have established targeted reductions in 2015 and 2020 in the *Environmental Goals and Sustainable Prosperity Act*.

NSPI's modeling in the IRP could highlight the potential cost consequences of increasingly stringent emission limits in a multitude of different scenarios. For example, it may well be that once a certain reduction level is reached for a particular air pollutant, it becomes much more costly to achieve incremental emission reductions. **It is therefore appropriate that amendments to the *Air Quality Regulations* for the post-2011 period should be delayed until the Department and stakeholders have the benefit of the quantitative analysis and data that will be provided in the IRP Final Report to be filed with the Board by November 13, 2009.**

Flexibility

NewPage and Bowater note that the Discussion Paper would allow NSPI to exceed its GHG emissions cap by up to 3% in exchange for investment in new transmission infrastructure that increases the grid's capacity to handle electricity generated locally from renewable sources (p. 8). It is important for the Department to keep in mind that NSPI will likely seek recovery for such investments directly from ratepayers. Therefore, while this option may spur new transmission development, on its own it is not likely to offset increases to electricity rates that may flow from new environmental legislation. Consequently, rigorous analysis of the potential impact of implementing this option is also required.

Also, in addition to the above point and the flexibility offered by the proposed multi-year "compliance period limits" (p. 7), NewPage and Bowater submit that the final Regulations should provide NSPI with an additional, general level of flexibility for unforeseen or exceptional circumstances that may arise in the future.

Absolute Caps on NSPI

At page 11, the Discussion Paper notes that: "The federal government has recently expressed its interest in a North American cap and trade system." Notwithstanding this possibility, the Discussion Paper proposes an absolute cap on NSPI emissions. NewPage and Bowater believe that there would be merit in providing some flexibility so as to allow NSPI to meet its emission limits (or portions thereof) by purchasing credits from other Nova Scotia (or possibly other) companies who are better positioned to reduce emissions.

Conclusion

NewPage and Bowater appreciate the Department's willingness to seek input on the potential costs to ratepayers of the establishment of more stringent emission targets. Since NSPI has the technological capability to examine this issue in much greater detail, and since the IRP process which can collect and examine this information is about to get underway, NewPage and Bowater recommend that the Department delay the implementation of further emission reduction targets post-2011 until more information is available to the Department, NSPI, and stakeholders through the 2009 IRP process.

The upcoming IRP provides an excellent vehicle for the Province and all stakeholders to explore with rigour the best way forward on this important topic. In the meantime, initial GHG emission caps consistent with those proposed in the Discussion Paper for 2010 and 2011 could be introduced.

We are available at the Department's convenience to discuss these points and suggestions in further detail.

Yours very truly,

George T.H. Cooper

(4879335.3)