

Gas Distribution Regulations (Nova Scotia)

made under Section 42 of the
Gas Distribution Act
S.N.S. 1997, c. 4

O.I.C. 1998-576 (November 10, 1998), N.S. Reg. 86/98
as amended up to O.I.C. 2016-67 (March 17, 2016), N.S. Reg. 46/2016

Table of Contents

Please note: this table of contents is provided for convenience of reference and does not form part of the regulations.

[Click here to go to the text of the regulations.](#)

Short title

Interpretation

Franchise approval

Classes of franchise

Franchise evaluation

Exemptions from application requirements

Section 14 franchise

Franchise terms and conditions

Rates

Franchise amendment

Franchise renewal

Utility and Review Board Act

Board orders and directives

Board powers and duties

Non-derogation

Short title

1 These regulations may be cited as the Gas Distribution Regulations (Nova Scotia).

Interpretation

2 (1) Pursuant to clause 42(1)(k) of the Gas Distribution Act, the following words or expressions are defined for the purposes of that Act:

- (a) “delivery of gas for ultimate consumption” means the transportation of gas
 - (i) from the point of interconnection with
 - (A) an interprovincial gas pipeline,
 - (B) another gas delivery system,
 - (C) the outlet flange of a gas processing, separation or storage facility, or

(D) the central point in a field in which gas is gathered from a gas producing or gas storage well, as the case may be,

to the discharge side of the meter at which physical custody of gas is transferred to an end user, and

(ii) from the discharge side of the meter at which physical custody is transferred to an end user to the exterior wall of any house, building, or structure, or to such other point as determined by the Board, but does not include the transportation of gas as described in this subclause to

(A) a customer who is served by a full regulation class franchisee or a producer class franchisee,

(B) the existing generating station owned by Nova Scotia Power Inc. located at Tuft's Cove, Halifax Regional Municipality, Nova Scotia,

(C) the existing forest products manufacturing facility owned by Stora/Enso located in Point Tupper, Richmond County, Nova Scotia,

(D) the existing fractionation plant owned by Sable Offshore Energy Inc. located in Point Tupper, Richmond County, Nova Scotia, and

(E) the existing wallboard manufacturing facility owned by Canadian Gypsum Corporation located in Point Tupper, Richmond County, Nova Scotia,

and for the purpose of Sections 19 and 20 of the Act, clause 5(a) of the Pipeline Act does not apply. Clause 2(1)(a) replaced: O.I.C. 2000-533, N.S. Reg. 183/2000.

(b) "fees" include amounts payable to the Board

(i) upon application for a franchise or licence;

(ii) for renewal, amendment, suspension, expansion, consolidation, transfer, assignment, cancellation or reinstatement of a franchise or licence;

(iii) for determination to remove, abandon, extend or improve a gas distribution system;

(iv) for the determination of tariffs, rates, tolls and charges to be paid for the delivery of gas by a gas delivery system, including related services; and

(v) for the purpose of recovering all or part of such direct and indirect expenses as the Board determines to be attributable to its responsibilities under the Act or these regulations;

(c) "granting a franchise" includes granting an amendment, consolidation, transfer or assignment of a franchise;

Clause 2(1)(c) amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

(d) "Pipeline Act" in Section 20 of the Act includes regulations made pursuant to the Pipeline Act.

(2) In these regulations,

(a) “Act” means the Gas Distribution Act;

(b) “applicant” means a company that applies for a franchise pursuant to the Act or these regulations;

(c) “benefits plan” means a plan for

(i) the establishment of an office in the Province,

(ii) the training and employment of Nova Scotians by the applicant and the contractors of an applicant,

(iii) the supply of goods and services by residents of Nova Scotia to the applicant and the contractors of the applicant,

(iv) the constitution of the applicant’s board of directors in accordance with the provisions of these regulations, and

(v) the ownership of the applicant

during the planning, design, construction, operation and abandonment of a gas delivery system;

(d) “Board” means the Nova Scotia Utility and Review Board;

(da) “bundled service provider” means a franchise holder who provides both transportation and commodity services;

Clause 2(2)(da) added: O.I.C. 2002-266, N.S. Reg. 72/2002.

(e) “company” includes a person or a group of persons, partnership, co-operative or municipality and includes the heirs, successors, administrators or assigns of a company, person or group of persons, partnership or municipality;

(f) “contractor” means anyone who performs work authorized by or on behalf of a franchise holder, or provides or requires goods or services pursuant to work or operations authorized by a franchise holder;

Clause 2(2)(g) repealed: O.I.C. 2002-266, N.S. Reg. 72/2002.

Clause 2(2)(h) repealed: O.I.C. 2002-266, N.S. Reg. 72/2002.

(i) “franchise” means a franchise granted pursuant to the Act to construct and operate a gas delivery system;

(ia) “franchise area” means the geographic area that is planned to be served within 10 years by the franchise holder;

Clause 2(2)(ia) added: O.I.C. 2002-266, N.S. Reg. 72/2002.

(j) “franchise holder” means a company that holds a franchise issued by the Board;

(k) “full regulation class franchise” means a franchise granted to a company that constructs and operates a gas delivery system other than a producer class franchise or a single end user class franchise;

(l) “gas” means

(i) odourized sales gas, or,

(ii) any substance declared by the Board to be gas;

Clause 2(2)(l) replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

(m) “gas delivery system” means

(i) any pipes, equipment, apparatus, mechanism, machinery, instrument or ancillary facility used to deliver gas for ultimate consumption,
Clause 2(2)(m)(i) replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

(ii) any building or structure that houses or protects anything referred to in subclause (i),

but does not include a tank car, tank wagon, cylinder or vessel for the delivery of compressed natural gas or liquefied petroleum gas, including propane and butane, unless such are operated in conjunction with or ancillary to a gas delivery system;

Clause 2(2)(m) errata: O.I.C. 1999-145, N.S. Reg. 31/99; amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

(n) “gas marketer” means a person who, through a gas delivery system,

(i) sells or offers to sell gas to a customer,

(ii) acts as the agent or broker for a seller of gas to a customer, or

(iii) acts or offers to act as the agent or broker of a customer in purchasing gas,

and “gas marketing” has a corresponding meaning;

Clause 2(2)(n) replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

(o) “gas transportation services user” or “GTS user” means a company that purchases gas transportation services from a franchise holder;

Clause 2(2)(p) repealed: O.I.C. 2002-266, N.S. Reg. 72/2002.

(q) “interprovincial pipeline” means the pipeline which received a Certificate of Public Convenience and Necessity GC-95 approved by the Governor In Council by Order in Council P.C. 1997-1908 dated December 16, 1997;

(r) “municipality” means a regional municipality, town or municipality of a county or district;

(s) “Minister” means the Minister responsible for the Act;

(t) “prescribed” means, except where the context otherwise requires, prescribed by the Board by regulation;

(u) “producer class franchise” means a franchise granted to a company that produces onshore gas, or to a company that is wholly owned by the gas producing company or that wholly owns the gas producing company, for delivery to a single end user;

Clause 2(2)(v) repealed: O.I.C. 2002-266, N.S. Reg. 72/2002.

(w) “single end user class franchise” means a franchise granted to a company where the gas is consumed solely by the franchise holder, a company that is wholly owned by the franchise holder or a company that wholly owns the franchise holder.

Clause 2(2)(w) replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

(3) These regulations do not apply to

(a) the facilities of the Sable Offshore Energy Project at Goldboro in the County of Guysborough in the Province;

(b) distribution facilities for bottled propane;

(c) the Sable Offshore Energy Project liquids line and fractionation facilities at Point Tupper in the County of Richmond in the Province; and

(d) the interprovincial pipeline or any pipeline connecting two or more provinces.

(4) Wherever in these regulations a word or an expression defined by the Act or these regulations is used, it has the same meaning given to it by the Act or these regulations except where a contrary intention is expressed or necessarily implied.

Franchise approval

3 (1) After reviewing one or more applications made pursuant to the Act and these regulations and after considering all of the evidence received and allowed in connection therewith, and after conducting such inquiry or hearing as the Board is required to hold or has considered necessary or desirable in the circumstances, the Board may by order,

(a) if it is satisfied that to do so is in the public interest, grant a franchise and attach to the franchise such terms and conditions as it considers to be in the public interest; or

(b) refuse to grant any franchise.

(2) Every order granting a franchise pursuant to the Act and these regulations shall be subject to approval by the Governor in Council.

Classes of franchise

4 The Board may grant

(a) a full regulation class franchise;

(b) a producer class franchise; or

- (c) a single end user class franchise,

to a company that applies to the Board for a franchise to construct and operate a gas delivery system.

Franchise evaluation

5 Subject to Section 6, the Board shall not grant a franchise over an area unless

- (a) the applicant can demonstrate that the applicant has a reasonable likelihood of serving the proposed franchise area within a period of ten years;

Clause 5(a) amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

Clause 5(b) repealed: O.I.C. 2002-266, N.S. Reg. 72/2002.

- (c) the applicant has submitted to the Board a Socio-Economic Impact Statement that shall include

- (i) a benefits plan, together with a written undertaking that if the applicant is granted a franchise, the applicant will take all reasonable measures to implement the benefits plan,

- (ii) evidence that the applicant is fully aware of any significant socio-economic effects of the proposed franchise, has measures in place to mitigate adverse socio-economic impacts and promote positive outcomes, and is committed to carrying out those measures in order to ensure that the franchise benefits the people directly affected by it with minimal disturbance to desirable aspects of their way of life,

- (iii) the probable benefits of the construction and operation of the delivery system,

and

- (iv) the nature and extent of the impact of the sale and consumption of natural gas within the proposed franchise area;

- (d) the benefits plan has been approved by the Board;

- (e) the applicant has provided commitments satisfactory to the Board to encourage competition among agents, gas marketers and brokers in the sale of gas within the proposed franchise area by specifying,

- (i) in a code of conduct filed with the Board, the steps the applicant proposes to take to eliminate any undue competitive advantage as a result of its being a bundled service provider,

Clause 5(e)(i) replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

- (ii) the availability to all gas marketers of detailed market information including names, addresses and telephone numbers of customers and potential customers in the proposed franchise area, and

Clause 5(e)(ii) replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

(iii) information relating to the existing distribution system and such other information, including anticipated construction and build-out plans, as may be determined by the Board;

Clause 5(e)(iii) added: O.I.C. 2002-266, N.S. Reg. 72/2002.

Clause 5(e) amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

(ea) where the applicant is a public utility as defined in the Public Utilities Act, the applicant can demonstrate to the Board how it shall promote competition with respect to the energy products it distributes; and

Clause 5(ea) added: O.I.C. 2002-266, N.S. Reg. 72/2002.

(f) the applicant has provided such further information as the Board determines.

6 The Board may grant a franchise without the applicant submitting a Socio-Economic Impact Statement, a benefits plan, or both if

(a) the gas delivery system to which the application relates is less than 5 km long;

(b) the franchise to which the application relates belongs to a class of franchise exempted from the provisions of these regulations pursuant to Section 10;

(c) the application is made pursuant to Section 10 of the Act; or

Clause 6(c) replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

(d) in the opinion of the Board, the application is for a minor amendment to a franchise.

Section 6 amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

7 (1) The Board shall not approve a benefits plan unless the plan provides that

(a) the applicant will establish in the Province an office where decisions are made at a level of authority that the Board considers appropriate;

(b) the applicant and its contractors shall train and employ persons residing in the Province unless the applicant can demonstrate that all reasonable efforts to employ and train persons residing in Nova Scotia have been explored and exhausted requiring the recruitment and hiring of persons residing outside the Province;

Clause 7(1)(b) amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

(c) where the Board considers appropriate, the applicant will carry out a program and make expenditures for the promotion of education and training in the Province;

(d) the applicant and its contractors will contract for services to be provided from within the Province and procure goods manufactured in the Province, where those services and goods are competitive in terms of fair market price, quality, performance and delivery;

(e) the majority of the applicant's Board of Directors are residents of Nova Scotia; and

(f) if the applicant is not a municipality, residents of Nova Scotia shall have a meaningful and significant opportunity to participate in the ownership of the applicant by the end of the tenth year of the franchise.

(2) Subject to subsection (1), the Board may approve a benefits plan if, in the Board's opinion, it would be in the public interest to do so.

(3) The Board may make the approval of a benefits plan subject to such terms and conditions as are specified by the Board at the time the benefits plan is approved.

8 If a benefits plan respecting a franchise has been approved by the Board, it shall be a condition of the franchise that the franchise holder shall take all reasonable measures necessary to ensure that the provisions of the approved benefits plan and any terms and conditions of approval specified by the Board are carried out.

9 (1) Every franchise holder who has had a benefits plan approved shall submit a written report to the Board at least every 6 months during the initial planning and construction of the gas delivery system that sets out how and to what extent it has carried out the provisions of the benefits plan, any pertinent factors affecting the implementation of the plan, and measures taken or to be taken to ensure commitments are being or will be fulfilled.

(2) The first report required by subsection (1) shall be submitted to the Board within 180 days of the date on which the franchise is granted.

(3) Every franchise holder who operates a gas delivery system for which a benefits plan has been approved shall submit a written report to the Board at least once every 12 months that sets out how and to what extent it has carried out the provisions of the benefits plan.

(4) The first report required by subsection (3) shall be submitted to the Board within one year from the date on which the franchise is granted.

10 The Board may exempt a single end user class franchise or a producer class franchise from the requirements of clauses 5(c) and (d) and Sections 6, 7, 8 and 9.
Section 10 replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

Exemptions from application requirements

11 (1) An applicant for a producer class franchise shall be exempt from filing as part of its application information concerning the availability of gas supplies, consumption projections, related experience in the gas delivery business, plans to provide service in the franchise area and commitments to encourage competition among agents, marketers and brokers in the sale of gas within the proposed franchise area.

(2) An applicant for a single end user class franchise shall be exempt from all toll and tariff terms and conditions and from filing as part of its application information concerning economic feasibility of the proposed gas delivery system, related experience in the gas delivery business, plans to provide service in the franchise area and commitments to encourage competition among agents, marketers and brokers in the sale of gas within the proposed franchise area.

Section 14 franchise

12 A company applying for a franchise pursuant to Section 14 of the Act shall provide information concerning the public interest served by severing an existing franchise territory including information as to

(a) the anticipated user or users of the gas;

(b) the market to be served; and

(c) the quantities of gas to be shipped and the type of service required.

Section 12 replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

Franchise terms and conditions

13 (1) A full regulation class franchise shall be subject to the following terms and conditions:

(a) the franchise holder shall affirm to each GTS user the truth of the representations contained in the franchise holder's application for its franchise or such revised representations as the Board may determine;

(b) the franchise holder shall affirm to each GTS user all the applicable covenants made by it in the franchise holder's application for its franchise;

(c) the franchise holder shall carry adequate personal injury, property damage and third party liability insurance for losses suffered in the construction and operation of a gas distribution system on terms and in amounts determined by the Board;

(d) the franchise holder shall, at all times, indemnify and save harmless the Board and the Province from and against all claims, including costs related thereto, for all damages or injuries including death to any person or persons and for damage to any property, arising out of the franchise holder operating, constructing, and maintaining its gas delivery system in the Province, or utilizing its gas delivery system for the carriage of gas owned by others;

(e) in contracts between a franchise holder and a GTS user, amounts payable for late payment of the transportation charge shall not exceed such per cent per annum, compounded monthly, as the Board may approve;

(f) the franchise holder shall maintain the code of conduct referred to in subclause 5(e)(i) as approved by the Board and the franchise holder is bound by the provisions of that code;

(g) the franchise holder shall make available to all gas marketers, on such terms as the Board may specify,

(i) marketing information consisting of customer names, customer addresses, customer telephone numbers and such other customer information as the Board may require to be made available, and

(ii) information relating to the existing distribution system and such other information, including anticipated timing and extent of construction and build-out plans, as may be determined by the Board;

Clause 13(1)(g) replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

(h) a franchise holder shall covenant with a GTS user to terminate service on such notice and such other terms as the Board may determine;

(i) no franchise holder shall enter into a contract with a GTS user until the Board has approved the form of the contract;

(j) subject to subsection 18(d), a bundled service provider shall be permitted to sell gas and transportation services upon terms and conditions as are determined by the Board;
Clause 13(1)(j) replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

(k) the franchise holder shall comply with Section 78 of the Public Utilities Act, prior to commencing construction or operation of a gas distribution system pursuant to a franchise; and

(l) such further terms and conditions as the Board may prescribe.

(2) A producer class franchise is subject to the terms and conditions set forth in subclauses (a), (b), (c), (d), (e), (h), (i), (j), (k), and (l) of subsection (1).

(3) A single end user class franchise is subject to the terms and conditions set forth in subclauses (c), (d), (k), and (l) of subsection (1).

(4) If pursuant to Section 78 of the Public Utilities Act, a municipality does not consent to the construction requested or gives consent that is unacceptable to the franchise holder, the matter shall be referred by the franchise holder to the Board.

(5) Information received by a gas marketer from a franchise holder pursuant to clause (1)(g) is confidential and shall not be used by the gas marketer for any purpose other than gas marketing, and prior to receiving the information, the gas marketer shall so agree in writing.
Subsection 13(5) amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

14 The Board may develop a set of standard terms and conditions that shall apply, except to the extent modified by any special terms and conditions set by the Board in individual cases, to each class of franchise.

Rates

15 (1) In awarding a franchise, the Board may provide the franchise holder with performance-based rates, tolls or charges as determined by the Board.
Clause 15(1) amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

(2) Performance indicators on which the rates, tolls or charges in subsection (1) are based shall be measured against criteria specified by the Board in the terms and conditions of the franchise.

Clause 15(2) amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

16 (1) The Board shall create a single, franchise-wide rate, toll or charge for gas transportation services to each customer class of a franchise holder.

(1A) The Board may approve a rate, toll or charge that is lower than the franchise-wide rate, toll or charge under subsection (1) for a franchise holder to provide gas transportation services to a customer if the Board determines that it is in the public interest to do so.

Subsection 16(1A) added: O.I.C. 2016-67, N.S. Reg. 46/2016.

(1B) The Board's approval under subsection (1A) may be subject to any terms or conditions that the Board determines to be appropriate.

Subsection 16(1B) added: O.I.C. 2016-67, N.S. Reg. 46/2016.

(1C) A franchise holder who is approved by the Board to provide gas transportation services to a customer at a lower rate, toll or charge under subsection (1A) may periodically change the amount of that rate, toll or charge if both of the following conditions are met:

- (a) the changed rate, toll or charge is
 - (i) equal to or higher than the amount approved by the Board under subsection (1A),
 - (ii) equal to or lower than the franchise-wide rate, toll or charge for the customer class to which the customer belongs;
- (b) the change is approved by the Board upon summary application by the franchise holder.

Subsection 16(1C) added: O.I.C. 2016-67, N.S. Reg. 46/2016.

(2) In this Section, “customer class” means a group of customers with similar or like requirements for gas transportation services, as determined by the Board.

Subsection 16(2) amended: O.I.C. 2016-67, N.S. Reg. 46/2016.

Section 16 replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

Section 17 repealed: O.I.C. 2002-266, N.S. Reg. 72/2002.

Franchise amendment

18 The Board may on its own initiative, at the request of the franchise holder or upon receipt of a complaint, and shall at the request of the Governor in Council, consider amending the franchise and without restricting the generality of the foregoing,

- (a) adjust boundaries to exchange territory with an adjacent franchise holder to consolidate service;

- (b) alter the boundaries of the franchise area;

Clause 18(b) replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

- (c) amend the terms and conditions of a franchise in such manner as it considers to be in the public interest;

- (d) where the franchise holder is a bundled service provider, conduct a hearing after 7 years from the award of the franchise to determine whether the development and operation of the marketplace is being unduly restricted because the franchise holder is a bundled service provider and, if so determined, amend the franchise by restricting the terms and conditions under which the franchise holder may engage in gas marketing.

Clause 18(d) added: O.I.C. 2002-266, N.S. Reg. 72/2002.

Section 18 amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

19 The Board may consider and approve changes to a franchise and, without restricting the generality of the foregoing, it may accept surrender of the franchise on specified terms including sufficient notice periods to allow interested parties to explore the alternatives to

- (a) rebrand the area; or

(b) allow consumers within the franchise area a sufficient time to convert to another energy source,

with service continuing during the notice period.

20 Where a franchise has been surrendered, an application for a new franchise in place of the surrendered franchise shall follow the normal application procedures with such changes as the Board considers appropriate under the circumstances.

Franchise renewal

21 (1) On such terms and conditions as the Board considers appropriate, the Board may renew a franchise at the end of its primary term by extending the term for 25 years.

Subsection 21(1) amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

Subsection 21(2) repealed: O.I.C. 2002-266, N.S. Reg. 72/2002.

(3) If the existing franchise holder does not apply to renew its franchise at the end of the primary term, the existing franchise holder shall continue service for such time as the Board determines will allow users to convert to another energy source.

Subsection 21(3) amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

Utility and Review Board Act

22 The provisions of the Utility and Review Board Act and the regulations enacted pursuant thereto apply mutatis mutandis to matters arising under the Act and these regulations except where a contrary intention is expressed or necessarily implied in the Act and these regulations.

Section 23 repealed: O.I.C. 2002-266, N.S. Reg. 72/2002.

Board orders and directives

24 (1) All orders and directives of the Board, other than those required to be approved by the Governor in Council, are final.

(2) The finding or determination of the Board that a matter is in the public interest or in relation to every matter concerning the application for and the granting of a franchise or license, including its terms and conditions, transfer, assignment, amendment, suspension, reinstatement or cancellation are and are deemed to be questions of fact within the meaning of Section 26 of the Utility and Review Board Act.

25 (1) An appeal lies to the Court of Appeal from an order or directive of the Board upon any question as to its jurisdiction or upon any question of law, upon filing with the Court a notice of appeal within 30 days after the issuance of the order or directive.

(2) A notice of appeal shall contain the names of the parties and the date of the order appealed.

(3) A copy of the notice of appeal shall be served upon the other parties within 10 days of filing the notice of appeal with the Court.

(4) Neither the Board nor any member of the Board shall be liable for costs in connection with an appeal.

(5) Every order and directive made by the Board takes effect at the time prescribed in the order or directive and its operation is not suspended by an appeal.

Board powers and duties

26 An inquiry or investigation by the Board pursuant to Section 33 or 34 of the Act, or pursuant to Section 15 of the Utility and Review Board Act with respect to matters arising pursuant to Section 33 or 34 of the Act, may be open or closed to the public and be upon such terms and conditions as the Board may determine and at the time and in the manner determined by the Board.

27 The Board may make rules respecting practice and procedure in relation to matters coming before it as a result of the Act and these regulations including, but without restricting the generality of the foregoing, the nature and extent of interventions at meetings, hearings, inquiries and investigations.

28 Where a matter before the Board requires the consideration of the Board and other public bodies to either arrive at a full decision or to complete or enhance the process, the Board, with the approval of the Governor in Council, may meet jointly with those other public bodies for the purpose of studying, investigating, hearing or determining a matter and the joint decision of the Board and the other public bodies is and shall be the decision of the Board.

29 (1) The Board may engage such experts or legal counsel, or both, to provide it with advice on technical and legal matters at issue or incidental to the subject matter of a meeting, public hearing, inquiry or investigation.

(2) All costs and disbursements incurred in the engagement of experts and legal counsel referred to in subsection (1) shall be costs of the meeting, public hearing, inquiry or investigation concerned.

30 (1) For the purpose of the Act and these regulations, the phrase “issue subpoenas to compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony” includes a written request by the Board or one of its members to a person for information relevant to a meeting, public hearing, inquiry or investigation even though that person may not be required to testify at the meeting, public hearing, investigation or inquiry or where an investigation may not result in a meeting, public hearing or inquiry.

(2) The written request referred to in subsection (1) shall be by registered mail unless service is unable to be made due to the absence of the person to whom the written request is made, and in such case may be made by registered mail to that person's last known address.

31 (1) For the purpose of the Act and these regulations, the subpoena referred to in subsection 17(1) of the Utility and Review Board Act shall be served by personal service unless the Board is not able to effect personal service due to the absence of the person to be served.

(2) Where a person cannot be served by personal service due to that person's absence, service may be made by registered mail to the person's last known address.

32 The Board may, in relation to any application, meeting, public hearing, inquiry or investigation, cause the evidence of witnesses residing within or without the Province to be taken in the manner prescribed by law for depositions in civil actions in the Supreme Court of Nova Scotia.

33 The Board may rehear or review any application and may by order rescind or vary any order made by it.

34 (1) The Board may prescribe, in the case of full regulation class franchises,

(a) the manner in which the accounts of the franchise holder shall be kept;

(aa) where a franchise holder is a bundled service provider, that separate books and accounts respecting the sale of commodity and the transportation toll or charge be maintained, and that separate disclosure of the commodity charge and the transportation toll or charge be made on a bill to a customer;

Clause 34(1)(aa) added: O.I.C. 2002-266, N.S. Reg. 72/2002.

(b) the classes of property for which depreciation may properly be included under operating expenses in the accounts and the accounting method or methods that may be used in computing and charging depreciation in respect of each of the classes of property; and

(c) a uniform system of accounts.

(2) The Board may, in the case of full regulation class franchises, require the franchise holder to keep and make available to the Board for inspection by the Board or a person authorized by the Board at a place of business in the Province such records, books of account and other documents in such form as may be prescribed by the Board and submit to the Board, at such times and in such form as may be so prescribed, returns and information respecting capital, volumes, revenues, expenses and other matters so prescribed and deemed by the Board to be matters that should be considered by it in carrying out its powers and duties under the Act and these regulations.

Subsection 34(2) amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

35 On the application of any party, the Board may determine whether information submitted or required to be submitted by that party or any other party may be kept confidential and, if so, on what terms.

36 (1) Pursuant to Section 31 of the Act, party and party costs and solicitor-client costs of and incidental to any proceeding before the Board are in its discretion and may be fixed at a sum certain or may be taxed.

Subsection 36(1) amended: O.I.C. 2002-266, N.S. Reg. 72/2002.

(2) The Board may order by whom and to whom any costs are to be paid and by whom they are to be taxed and allowed.

(3) The Board may prescribe a scale under which such costs shall be taxed.

(4) In awarding costs, the Board is not limited to the considerations that govern awards of costs in any court.

37 (1) The Board may set fees and may order that fees be paid as the Board considers appropriate.

(2) A person who is billed under subsection (1) may ask the Board for documentation supporting the fee charged and the Board shall provide the information in a timely manner.

Section 37 replaced: O.I.C. 2002-266, N.S. Reg. 72/2002.

38 The Board shall not impose an application fee defined in subclause 2(1)(b)(i) of these regulations on any municipality or co-operative.

39 The Board may, and at the request of the Governor in Council shall, make an investigation or inquiry or require any information from a franchise or licence holder on any matter arising pursuant to the Act or these regulations, including particularly matters dealing with policy or public safety.

40 The Board may consider policy issues and make recommendations to the Governor in Council for legislative changes or new legislation with respect to gas distribution matters.

Non-derogation

41 Nothing in these regulations derogates from any enactment that imposes duties, obligations or responsibilities upon a company.

42 Nothing in these regulations diminishes any power or authority conferred upon the Board by the Utility and Review Board Act except to such extent and for such purpose as may be set forth in the Act.

43 Nothing in these regulations relieves the holder of a franchise from the obligations imposed upon the holder of a franchise by Sections 17 and 18 of the Act, except to the extent that the Board determines otherwise.

Schedule "A" repealed: O.I.C. 2002-266, N.S. Reg. 72/2002.

Schedule "B" repealed: O.I.C. 2002-266, N.S. Reg. 72/2002.