

Headnote

Application for relief from the requirement contained in subsection 122(1) of the *Companies Act* (Nova Scotia) that a reporting issuer's annual financial statements be prepared in accordance with Canadian GAAP – Each reporting issuer has been granted an exemption from the requirements of section 3.2 of National Instrument 52-107 which permits each reporting issuer to continue to prepare its financial statements in accordance with U.S. GAAP – Relief granted subject to conditions.

Applicable Legislative Provisions

Companies Act, R.S.N.S. 1989, c. 81, as amended, ss. 122 and 123.

IN THE MATTER OF: The *Companies Act*, R.S.N.S.1989, c. 81, as amended (the **Act**)

- and -

IN THE MATTER OF: Emera Incorporated and Nova Scotia Power Incorporated

ORDER

(Section 123)

UPON the application of Emera Incorporated (**Emera**) and Nova Scotia Power Incorporated (**NSPI**, together with Emera, the **Applicants**) to the Nova Scotia Securities Commission (the **Commission**) for an order pursuant to clause 123(b) of the Act that each of the Applicants be exempt from the requirement contained in subsection 122(1) of the Act that the Applicant's annual financial statements be prepared in accordance with generally accepted accounting principles determined with reference to the Handbook of the Canadian Institute of Chartered Accountants (**CGAAP**);

AND UPON reading the application and the recommendation of staff of the Commission;

AND UPON the Applicants having represented to the Commission that:

1. Each Applicant is a company incorporated under and governed by the Act. The head office of each Applicant is located at 1223 Lower Water Street, Halifax, Nova Scotia, B3J 3SB.
2. Each Applicant is a reporting issuer in each province of Canada and is not in default of securities legislation in any such province.
3. Emera is a geographically diverse energy and services company headquartered in Halifax, Nova Scotia with approximately \$29 billion in assets and 2017 revenues of more than \$6

billion. Emera invests in electricity generation, transmission and distribution, gas transmission and distribution, and utility energy services with a strategic focus on transformation from high carbon to low carbon energy sources. Emera has investments throughout North America, and in four Caribbean countries. Approximately 90% of Emera's adjusted net income in 2017 came from rate regulated investments, including NSPI.

4. NSPI is one of the largest regulated operating subsidiaries of Emera. It is the primary electricity supplier in Nova Scotia, providing electricity generation, transmission and distribution services to approximately 515,000 customers. NSPI has approximately \$5 billion in assets, and is a public utility regulated by the Nova Scotia Utility and Review Board (UARB).
5. Prior to January 1, 2011, the financial statements of each Applicant were prepared in accordance with CGAAP as it existed prior to the adoption of International Financial Reporting Standards (**IFRS**), which permitted the use of specific rate-regulated accounting treatments consistent with the then-current version of Part V of the Handbook of the Canadian Institute of Chartered Accountants. These specific rate-regulated accounting treatments were supported by specific regulatory decisions and treatments prescribed by utilities regulators, including the UARB, which oversees NSPI's accounting policies. Emera's consolidated financial statements include the financial statements of NSPI and its other regulated subsidiaries (of which many use rate-regulated accounting), and therefore are significantly influenced by rate-regulated accounting treatments.
6. Owing to continuing uncertainty around the treatment under IFRS of entities with rate-regulated activities, each Applicant has opted, beginning with its 2011 fiscal year, to prepare and report its financial statements in accordance with accounting principles generally accepted in the United States (**U.S. GAAP**). U.S. GAAP, including its treatment of rate-regulated accounting, is very similar to pre-IFRS CGAAP and is a standard with which Canadian investors, analysts and regulators are familiar and comfortable.
7. To facilitate the U.S. GAAP reporting, each of the Applicants has previously applied for and been granted exemptions from the requirements of Section 3.2 of NI 52-107. The current exemption was granted on January 26, 2018 (the **Securities Law Relief**).
8. Each of the Applicants applied for and was granted on July 9, 2014 an exemption from the requirement contained in subsection 122(1) of the Act that its annual financial statements be prepared in accordance with CGAAP (the **Existing Order**).
9. The previous Securities Law Relief was, and the Existing Order is, subject to a sunset provision under which the exemption expires at the end of each of the Applicant's 2018 financial year. The recently granted Securities Law Relief permits each of the Applicants to continue to prepare its financial statements in accordance with U.S. GAAP until the earliest of the following:

- (i) January 1, 2024;
- (ii) if the Applicant ceases to have activities subject to rate regulation, the first day of the Applicant's financial year that commences after the Applicant ceases to have activities subject to rate regulation; and
- (iii) the effective date prescribed by the International Accounting Standards Board (**IASB**) for the mandatory application of a standard within IFRS specific to entities with activities subject to rate regulation.

AND UPON the Commission being satisfied that to do so would not be prejudicial to the public interest and that in the circumstances of this particular case, there is adequate justification for so doing;

IT IS ORDERED that the Existing Order is revoked.

AND IT IS ORDERED, pursuant to clause 123(b) of the Act, that each of the Applicants is exempt from the requirement contained in subsection 122(1) of the Act that the Applicant's annual financial statements be prepared in accordance with CGAAP provided that:

- (a) the Applicant prepares its annual financial statements in accordance with U.S. GAAP; and
- (b) the exemption in this order will terminate on the earliest of the following:
 - (i) January 1, 2024;
 - (ii) if the Applicant ceases to have activities subject to rate regulation, the first day of the Applicant's financial year that commences after the Applicant ceases to have activities subject to rate regulation; and
 - (iii) the effective date prescribed by the IASB for the mandatory application of a standard within IFRS specific to entities with activities subject to rate regulation.

DATED at Halifax, Nova Scotia, this 18th day of July, 2018.

NOVA SCOTIA SECURITIES COMMISSION

"Paul Radford"

"Shirley Lee"

Paul E. Radford, Q.C.
Chair

Shirley P. Lee, Q.C.
Vice-chair