



February 10, 2023

Board of Commissioners of Public Utilities  
Petroleum Products Pricing Review  
Prince Charles Building  
120 Torbay Road, P.O. Box 21040  
St. John's, NL A1A 5B2  
Attention: Ms. Cheryl Blundon  
Director of Corporate Services & Board Secretary

Dear Ms. Blundon:

Re: Phase I of the Petroleum Products Pricing Review – Issue Identification

I am writing to you on behalf of Harvey's Home Heating and Harvey's Oil (Harveys), in response to a call for submissions by the Public Utilities Board (PUB) pursuant to Phase I of the 2022-2023 Petroleum Products Pricing Review (PPPR). We have reviewed the PPPR Consultation Document as well as the Phase I Report by Kalibrate and make the following submissions.

We agree with the statements that whether the Province of Newfoundland and Labrador (NL) continues with petroleum pricing regulation or not, it does not provide a pricing advantage to end consumers, as noted in both reports. However, it is our opinion that the structure of the petroleum pricing regulation in NL has a significant negative impact on our business as wholesalers of petroleum products. It is businesses like ours that bear the burden of the impact of volatility in the markets and weaknesses in the current regulatory scheme.

On an industry-wide basis, the price to consumers as compared with market cost and wholesale margins may appear to be fair and reasonable. However, from the perspective of one company in the industry, we do not benefit from this macro view and are instead negatively impacted by the volatility of the market and inherent delays in the regulatory regime to respond to same. As wholesalers, we are subject to maximum prices that we can charge consumers for the petroleum products we sell, yet we do not receive the same protection on the products we buy. Any inflationary pressures or delays and timing issues in responding to the market directly affects our bottom line, without any ability to respond, except as approved by the PUB on a periodic, *ad hoc* basis.

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The specific issues we raise on behalf of Harveys, that we would like to see addressed and remedied as part of the 2022-2023 PPPR include:

- reducing the threshold at which the pricing interruption formula is used, and
- revising the current approach to determining the wholesale markup, including conducting an automatic, at least annual, review of the wholesale markup and including a contribution to overhead and reasonable return on investment in the wholesale markup.

### ***Price Interruption Formula***

Harveys view is that the current threshold for use of the price interruption formula is too high. The guidelines used at present for the interruption formula requires a variance of +/- 6.0 to 8.0 cents per litre in the daily or running average benchmark price. While we understand the desire to smooth pricing for end consumers, in a business where product is bought and sold at prices beyond a resellers control, we suggest the current threshold is too high for resellers to have to bear, especially in times of the intense volatility as has occurred in the market in recent years.

### ***Wholesale & Retail Markup***

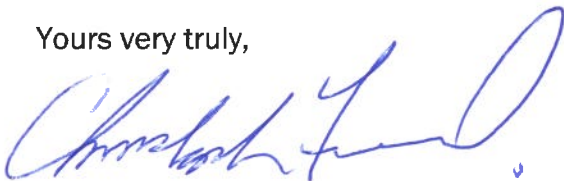
Harvey's strongly urges the PUB to put in place a periodic, at a minimum annual, review of the wholesale and retail markups, to determine on a timelier and more systemic basis, whether an increase is warranted for the upcoming year. The PUB indicates in the Consultation Document that mark-ups are intended to reflect "the cost of supply for wholesalers and retailers based on the factors set out in the legislation", meaning the markups are supposed to compensate for costs, which are constantly changing. However, the PUB takes years to reset the markups and when it does, it is on an *ad hoc* basis, using a cumbersome process - for both the applicant and the PUB, and without any plan for the next review. There have only been a handful of such adjustments to the markups since the regime was created 20 years ago. We understand that Harvey's, OHANL or any one company can make an application to revisit the markups. However, one company making an application requires disclosure of sensitive commercial information and in our experience, the current process for making a joint application is fraught with uncertainty as to what will satisfy the PUB to make the adjustments needed to respect the intent of the legislation. The current approach by the PUB is unworkable and at odds with a scheme which recognizes weekly and even daily fuel price fluctuations and because of this approach, any increase approved by the PUB is outdated the moment it is approved. While an automatic review may not align with the market directly, at least our members would not have to wait five or more years to have the ability to recover our ever-increasing costs, as was intended by the legislation.

In addition to an automatic review process, Harveys is of the view that the markups should include a reasonable return on investment and a contribution to overhead. As a private company, investing private equity into our business and taking the associated risks that go with operating in this industry, it is unreasonable for the regulatory regime to disregard this aspect of operating a business when setting the maximum prices.

Our business operates in an often-volatile market with many of the costs we bear increased due to government regulation, in addition to regular inflationary factors such as increased cost of capital, trucks, parts and the growing challenge to attract and retain staff, to name just a few. The current regulatory regime is unreasonable, insofar as it creates a fiction where private companies are meant to be able to recover costs but are unallowed to do so for many years. It is an untenable and unsustainable position for private companies that operate in the NL market.

We look forward to participating in Phase II and III of the 2022-2023 Petroleum Products Pricing Review and discussing any questions or comments you might have in respect of these submissions.

Yours very truly,



Christopher K. Forward  
General Manager

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