



**CONFIDENTIAL**

February 21, 2023

**VIA EMAIL** (dwhalen@pub.nlk.ca)

**Darlene Whalen**

Chair and Chief Executive Officer  
Board of Commissioners of Public Utilities

Dear Ms. Whalen,

**Re: The Petroleum Products Pricing Review by the Newfoundland & Labrador Board of Commissioners of Public Utilities**

This letter and all information provided herein is confidential and should be treated in accordance with the confidentiality provision set out by the Board.

Imperial's view is that free markets work – intervention in a free market, such as fuel price regulation, disrupts the supply and demand dynamic and often has unintended consequences that cannot be fully anticipated. Despite this view, given fuel prices in Newfoundland & Labrador are regulated, we appreciate the Board's desire to conduct a review of petroleum products pricing in the province.

In response to the invitation to participate in Phase I of the Petroleum Products Pricing Review set out by the Newfoundland & Labrador Board of Commissioners of Public Utilities, Imperial offers the below responses as per the "issues" identified related to the regulation of petroleum products in the province.

**i) Benchmark Data Sources**

Imperial is supportive of external New York Harbor benchmarks that are representative of import alternative product prices for the region. The examination of available benchmarks to determine the most representative benchmark in the market is something Imperial encourages the Board to consider (Platts vs. Argus).

Imperial is also of the view that the regulated price for Unleaded Gasoline should leverage the same price build-up approach as specified in the "New Brunswick General Regulation - Petroleum Products Pricing Act". Section (4) "Benchmark price" of the Act states the following:

**Benchmark price - periodic determination**

4(1) Subject to section 6, the benchmark price for each type of petroleum product shall be determined as follows:

- (a) for regular grade gasoline,
  - (i) subject to subparagraph (ii), the higher of the following:
    - (A) the weekly reference price for conventional gasoline;
    - (B) the weekly reference price for E10 gasoline;
  - (ii) if the weekly reference price for conventional gasoline is the same as the weekly reference price for E10 gasoline, that price;

The approach outlined above, ensures Wholesalers are able to reflect true market dynamics and helps maintain the resiliency of wholesale margin in all market scenarios. For example, in 2021 the external price reference for ethanol rose dramatically. As ethanol prices rise, Wholesalers should be able to reflect the rise in ethanol price in the price of E10 motor gasoline. To reflect these market dynamics, the formula used to calculate regulated Unleaded Gasoline prices within the "New Brunswick General Regulation - Petroleum Products Pricing Act" is an ideal approach to ensuring the resiliency of wholesale margin in all market scenarios.

ii) **Mid-grade and premium-grade gasoline**

Imperial's view is that the benchmark price used to formulate the weekly regulated price for Premium Gasoline should reference a market relevant Premium Unleaded Gasoline external price reference.

As an alternative and to address this situation, the regulated price should include an incremental allowable margin that corresponds to the spread between the Regular Gasoline versus the Premium Gasoline NYH benchmarks. Moreover, the 6 cpl fixed Premium differential to Regular gasoline does not capture fluctuations to benchmark prices, which in periods of high volatility, can result in unfavorable financial impacts. Updates to the spread between the Regular Gasoline versus the Premium Gasoline NYH benchmarks should be captured regularly (For example: each week during the weekly regulated pricing updates) to ensure latest market dynamics are reflected. In addition, a lower limit to the spread between the Regular Gasoline versus the Premium Gasoline NYH benchmarks should be established to ensure a minimum reasonable profitability for market participants and due to the additional supply chain complexity for supplying premium gasoline. Imperial believes that designing the regulated price formula in a way that reflects and captures true market dynamics will help ensure wholesale margin is adequately maintained in all market scenarios.

**iii) Seasonal Blending**

Imperial is supportive of maintaining a seasonal winter blend schedule for diesel and heating fuel/furnace oil in order to ensure suppliers can achieve market-based pricing and recover costs. In order to meet low temperature operability, much of the winter season requires ULSK blending beyond the 75% ULSK blend formula stipulated in the Newfoundland & Labrador regulation. A blend schedule that reflects the requirements within the region should be considered.

**iv) Benchmark Price Calculation**

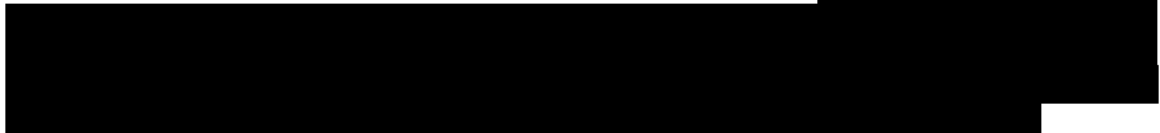
Imperial is supportive of a calculation that is based on seven days of data, using Friday benchmark data for Saturday and Sunday. Using the seven-day average is a more accurate reflection of the actual average price throughout the entire week. In extreme contrast, it would not be advisable to develop a weekly average using only two data points. Similarly, using only five days worth of data to develop a weekly average fails to capture the most accurate average price for the entire week. As a supplier our cost of inventory is based on the full week average, therefore market prices should reflect a consistent approach for cost recovery.

**v) Wholesale and Retail Mark-ups**

Imperial supports the review of Wholesale and Retail mark-ups to ensure there is reasonable margin for gasoline and diesel wholesalers. Reasonable margin must exist for market participants to ensure viability and long-term supply to the market.



It should also be noted that, as an Importer and terminal operator, Imperial is subject to ongoing investments within the Newfoundland & Labrador Board market.

**vi) Minimum Mark-ups**

To the extent that minimum mark-ups apply only to retail prices, Imperial does not take a position given it does not own or operate any retail sites in NL.

With respect to minimum Wholesale mark-ups, Imperial is supportive as it helps ensure a fair and competitive market environment for all Wholesalers.

vii) **Zone Boundaries and Differentials**

Imperial is supportive of maintaining zone boundaries that reflect the local supply chain and cost environment to ensure adequate price levels are set to support ongoing operations of suppliers. If the averaging of costs across zone is being considered, the average costs should not materially deviate from proposed/updated cost structures if the zones remain more delineated, as a material deviation would adversely disadvantage those suppliers that operate solely or more heavily in high-cost structure zones.

viii) **Process for Changes to the Mark-ups and Differentials**

Imperial is supportive of routine processes that ensure sufficient mark-up and differential adjustments are made to reflect the evolving pricing/cost environment in the region. Given the potential for resourcing constraints with industry stakeholders, any such processes should be designed with simplification and efficiency in mind.

ix) **Weekly Adjustments**

Imperial is supportive of aligning the weekly adjustments (Thursday change, effective Friday) to be consistent with other provincial regulatory boards across the region.

x) **Extraordinary Adjustments**

Imperial is supportive of conducting extraordinary adjustments in the event of significant changes in commodity prices, as these adjustments help capture market changes due to volatility and mitigate situations where wholesalers and consumers may be adversely impacted. A clearly defined criteria and/or formula within the legislation should be considered to ensure consistency and to eliminate uncertainty among suppliers.

xi) **Seasonal Suspension of Adjustments**

No comments.

xii) **Notice of Adjustments**

Imperial is supportive of ensuring the Board maintains the practice of providing advance notice of maximum price adjustments to wholesalers and retailers to allow sufficient time for the implementation of price changes. With that said, early public release of upcoming changes in maximum fuel prices could influence purchase behavior from consumers that could lead to potential supply disruptions depending on the magnitude and direction of the change being implemented by the Board.

xiii) **New issue raised by Imperial – “Regulated maximum pricing for Furnace Fuel/Heating Oil”**

Imperial is supportive of a review of the allowable mark-up to Furnace Fuel/Heating Oil. Reasonable margin must exist for market participants to ensure viability and long-term supply of Furnace Fuel/Heating Oil to the market.

The economics associated with supplying, storing, and distributing fuels in Newfoundland and Labrador is often challenged due to cost structure and the overall low volume and scale of consumption. [REDACTED]

xiv) **New issue raised by Imperial – “Cost Implication of Canada Clean Fuel Regulation”**

In light of the Canada Clean Fuel regulation taking effect in July 2023, Imperial encourages the Board to evaluate and include a sufficient cost element/adder to regulated prices. This cost element/adder is required to ensure suppliers can recover costs associated with complying with the Canada Clean Fuel regulation.

Should additional information be required, or additional questions arise, you may contact [REDACTED]

Sincerely,

Imperial Oil