



**OIL HEAT
ASSOCIATION**
NEWFOUNDLAND
& LABRADOR

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 the Oil Heat Association of Newfoundland & Labrador (OHANL) in response to a call for submissions by the Public Utilities Board (PUB) regarding 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 members' businesses as resellers of petroleum products. It is our members who ultimately 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 margins may appear to be fair and reasonable. However, from the perspective of individual companies in the industry, our members 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 resellers, 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 lines, without any ability to respond, except as approved by the PUB on an infrequent, *ad hoc* basis.

The home heat business of our members is even further impacted by the delay in timely review of wholesale markups, as the volume of the business has been decreasing year over year under the tremendous pressure of electrification incentives offered to consumers. OHANL doesn't take issue with the incentives *per se* but makes the point that when a business is in decline and margins are further encroached upon by an inability to make a profit due to price regulation that doesn't allow for cost recovery, the viability of the industry is effectively shortened by government policy.

The specific issues we raise on behalf of the members of OHANL, 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,
- revising the current approach to determining the **wholesale & retail markup**, including conducting an automatic, at least annual, review of the markups and including a contribution to overhead and reasonable return on investment in the markups,
- restructuring of the **zones and differentials**, and
- addressing the **fuel surcharges** charged to resellers by transport companies either through adjustment to the markup or through adjustment to the zone differentials.

Price Interruption Formula

OHANL members are of the view 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

OHANL 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 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. 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.

OHANL members are also of the view that the fluctuations in diesel and fuel surcharges charged to resellers by fuel transport companies as a cost of doing business must be reflected in the wholesale markup and in a timely manner. The current system varies the price of diesel charged to customers based on the market but maintains a fixed markup for companies where the price of diesel is one of the biggest variable costs in delivering product everywhere in the Province, but particularly in rural areas with longer distances between customers. This is an inherent inconsistency in the current regulatory regime that wholesale resellers are left to bear, without recourse or any assurance that timely adjustments to the markup might be able to compensate.

In addition to an automatic review process, OHANL members are of the view that the markups should include a reasonable return on investment and contribution to overhead. As private companies, investing private equity into our businesses 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 maximum prices.

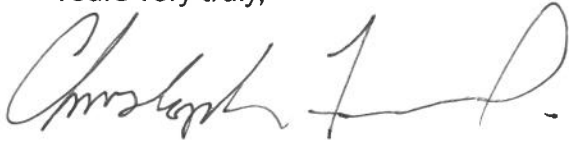
Zone Differentials

Our members are of the view that it is past time to conduct a comprehensive review of the zones and differentials currently in place, which have not been reviewed since price regulation was implemented in NL. The PUB indicates in the Consultation Document that “zone differentials represent the average wholesale cost to supply a product to a particular pricing zone” and therefore the average cost “may not be representative of the actual cost of supply for any one wholesaler”. We submit that the average cost used by the PUB does not represent the cost of *any supplier* in NL because it does not capture all of the costs of delivering petroleum products to the various zones – including transport rates that have more than doubled, along with the fuel surcharges that have been added over the years by transport companies. Once again, the current regulatory system does not recognize the additional costs incurred by resellers, that our members have no way to recover.

Our members operate 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 labour, to name just a few. It is unreasonable for government to create a fiction where private companies are meant to be able to recover costs but are unallowed to do so for years. It is an untenable and unsustainable position, especially for smaller 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,

A handwritten signature in black ink, appearing to read "Chris Forward". The signature is fluid and cursive, with a large initial "C" and a long horizontal stroke at the end.

Chris Forward
President

Cc: Dave Button, North Atlantic Petroleum
Dave Brown, Western Petroleum
Anthony Noonan, Parkland Fuel