

3.2.10 Office of the Commissioner of Petroleum Products Pricing (2003 Annual Report, Part 2.17)

Introduction

In 2003, we reviewed the Office of the Commissioner of Petroleum Products Pricing (the Commissioner). The objective of our review was to assess whether necessary systems and procedures were in place for the Commissioner to establish geographic pricing zones and to regulate maximum pricing for petroleum products at the wholesale and retail levels throughout the Province.

Conclusions from our 2003 review

As a result of our review we concluded the following:

- The Commissioner did not comply with the requirements of the *Petroleum Products Regulations* in establishing geographic pricing zones and setting maximum prices in that adequate information was not obtained on **historical** prices for petroleum products charged to retailers and consumers throughout the Province and on the **historical** margins between fuel costs and these prices.

As a result of not obtaining this information, the Commissioner could not consider, as required by the *Regulations*, those factors and costs that may have explained the differences between **historical** prices and between **historical** margins in establishing geographic pricing zones and maximum prices.

- In 1 instance, the maximum wholesale and retail prices for petroleum products set by the Commissioner was incorrectly calculated.
- The Commissioner was not adequately monitoring compliance with the *Petroleum Products Act* and *Regulations*. In particular, required contact information had not been provided by all wholesalers and retailers, periodic reports had not been requested from wholesalers and retailers, and no inspections of wholesalers and retailers had been conducted.

Update on Prior Years' Report Items

As a result, the Commissioner did not determine whether wholesalers and retailers were charging more than the established maximum price and did not obtain information on the factors which were influencing the costs of supplying petroleum products throughout the Province.

Subsequent to our 2003 review, the operations of the Commissioner were integrated with the operations of the Board of Commissioners of Public Utilities.

Update

In October 2005, we contacted the Board of Commissioners of Public Utilities requesting an update as to the progress on the comments and recommendations included in our 2003 report. The information provided by the Board in response to our request is outlined below.

2003 Recommendation

The Commissioner should obtain the information required by the Petroleum Products Regulations before changing zone boundaries and establishing maximum wholesale and retail prices.

Action Taken

The Board indicated that when it integrated the operations of the Commissioner with the Board, it initiated a two phase operational review. The first phase was to conduct an administrative and financial review of the newly established Petroleum Pricing Office (PPO) of the Board. The second phase of the operational review has been initiated and will involve the following:

- A complete assessment of the regulatory processes and pricing used by the Board's Petroleum Pricing Office (PPO) in setting maximum prices for petroleum products including: a review of benchmark prices and base prices, product taxes, pricing adjustments, the use of the Interruption Formula or other available options, as well as practices guiding the price adjustment process.

Update on Prior Years' Report Items

- An examination of the existing price adjustment methodologies including: base prices, total allowed mark-ups, retail and wholesale margins, price differential between furnace and stove oil, transportation surcharges for diesel fuel, and whether the Board should regulate wholesale rack prices.
- Regulatory monitoring and reporting.

The Board indicated that the following progress has been made to date on the second phase of its operational review:

- The preparation and release by the Board of a discussion document summarizing the issues and related questions to be covered by the review.
- An extensive review of the mark-up for furnace/stove oil was concluded on a priority basis to ensure continuity of supply throughout the 2005 heating season.
- *A Study of Storage and Distribution Costs for Petroleum Products throughout Newfoundland and Labrador* has been completed along with follow-up consultation, enabling feedback by the industry. Final decisions of the Board concerning the recommendations have been made and implementation is scheduled for mid-December 2005. Nominal changes in zone boundaries are expected along with some changes in the relative price differentials between zones, both increases and decreases.

Also, the Board indicated that the remainder of this comprehensive review will be conducted in the form of a hearing before the Board, likely in the Spring of 2006.

2003 Recommendation

The Commissioner should carry out enforcement and monitoring activities as provided for in the Petroleum Products Act and Regulations.

Update on Prior Years' Report Items

Action Taken

The Board indicated that Bill 11 entitled *An Act to Amend the Petroleum Products Act* dealt with certain enforcement issues and penalties to be implemented under the auspices of the former Commissioner. This Bill was introduced by the Minister of Government Services at the time who had the responsibility for the former Commissioner. The Bill received first reading in May 2003 but was not pursued further.

The Board indicated that it is of the opinion that appropriate enforcement/penalty mechanisms can only follow implementation of a workable monitoring and reporting regime. It was further indicated that such a regime is rife with confidentiality and other related issues and can only be functionally developed in consultation with those industry entities who will be the subject of the regulatory monitoring and reporting oversight. This issue is among the issues being dealt with in the Board's on-going review.

2003 Recommendation

The Commissioner should strengthen processes and controls relating to expenditures.

Action Taken

The Board indicated that it conducted an administrative and financial review of the newly established Petroleum Pricing Office (PPO) of the Board. This review focused on consolidating administrative and financial policies/procedures as well as identifying potential areas for cost savings.

The Board indicated that administrative and financial control of the former Commissioner has been consolidated in conformance with the existing practices, procedures and organization of the Board. This action has resulted in elimination of duplication, improved controls and substantive cost reductions.
