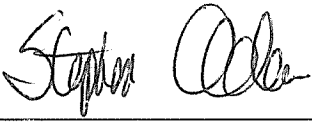

Halifax Regional Council
Special Session
March 11, 2004

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
Councillor Stephen Adams, Chair, Pipeline Review Committee

DATE: March 11, 2004

SUBJECT: Natural Gas - Taxation Agreement

ORIGIN

Pipeline Review Committee of March 11, 2004.

RECOMMENDATION

That:

1. Halifax Regional Council agree to support the taxation agreement negotiated by the Union of Nova Scotia Municipalities Natural Gas Subcommittee as outlined in the March 11, 2004 staff report.
2. HRM Council authorize staff to continue to pursue a mechanism to protect the continued provision of natural gas distribution to HRM residents, with a minimum of disruption, through an equity position in Heritage Gas, or possible ownership of some of the gas distribution infrastructure.

BACKGROUND

The Pipeline Review Committee considered the staff report dated March 11, 2004.

DISCUSSION

Following a review of the report and discussion, the Committee made the above recommendation.

BUDGET IMPLICATIONS

See Budget Implications section of the attached staff report.

MULTI-YEAR FINANCIAL IMPLICATIONS

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

N/A

ATTACHMENTS

March 11, 2004 staff report to the Pipeline Review Committee regarding Natural Gas Distribution

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Sherryl Murphy, Legislative Assistant, Municipal Clerk's Office

Report Approved by: _____

TO: Pipeline Review Committee

SUBMITTED BY:


George McLellan, Chief Administrative Officer

DATE: March 11, 2004

SUBJECT: Natural Gas Distribution

ORIGIN

With the support of HRM Council, during the past year staff have been working to support the UNSM Natural Gas Subcommittee in negotiating a taxation agreement for natural gas distribution systems, to facilitate natural gas distribution within the Halifax Regional Municipality, and more recently, to explore the possibility of HRM attaining an equity position in Heritage Gas.

There have been several recent developments regarding the taxation and equity issues:

- In December, Heritage Gas began distributing natural gas within HRM.
- Heritage Gas and UNSM have reached an agreement on the tax model and wording of the legislation that will be requested from Service Nova Scotia and Municipal Relations (SNSMR). It is the intention of SNSMR to table legislation this Spring.
- HRM staff have been unsuccessful in advancing the principle of the equity arrangement with SNSMR or the shareholders of Heritage Gas; however, will continue to work toward this goal.
- HRM staff have been negotiating a Partnership/Development Agreement with Heritage Gas which will replace the current Memorandum of Understanding, and will ensure that in the absence of an equity arrangement with Heritage Gas, goods and services provided to Heritage Gas by HRM will be recovered on a fee-for-service basis.
- On March 10, 2004, Heritage Gas filed a General Tariff application with the Utility and Review Board (UARB).

RECOMMENDATIONS

It is recommended:

- HRM Council agree to support the taxation agreement negotiated by the UNSM Natural Gas Subcommittee.
- HRM Council authorize staff to continue to pursue a mechanism to protect the continued provision of natural gas distribution to HRM residents, with a minimum of disruption, through an equity position in Heritage Gas, or, possible ownership of some of the gas distribution infrastructure.

BACKGROUND

Both Heritage Gas and the Provincial Departments of Energy and Service Nova Scotia and Municipal Relations, made clear the expectation that there would be one system to assess and tax natural gas distribution systems in Nova Scotia. To that end, the UNSM formed a subcommittee to develop a tax model to provide an acceptable level of taxation to municipalities. The negotiation was complicated by several factors:

- Previous failure of the Sempra attempt to distribute natural gas
- The greenfield nature of natural gas distribution and supporting business case is very sensitive. To our knowledge, the only subsidies currently being offered to support this initiative are in the form of municipal taxation.
- Traditional rate times assessment has been ruled out as a tax option, as Heritage Gas has indicated the resultant level of tax would undermine the Heritage Gas business case, and the Province seems to support this position.
- The varied interests of municipalities involved in the areas affected by the roll out of natural gas distribution. Some municipalities would benefit by an asset-based model, while others would benefit from a revenue-based model. To reach an agreement, it was necessary to compromise and find a tax model acceptable to all municipalities.
- The February 7, 2003, UARB approval of the Heritage Gas Franchise Application to distribute natural gas made it clear that “The Board continues to be of the view that excessive municipal taxation or fees will detract from the ability of a franchise holder to build out a distribution system, thereby delaying the distribution of natural gas in the Province. The Board awaits, with interest, the outcome of negotiations in this matter.” (p. 84 UARB decision)

All municipalities involved in the negotiation of the tax model worked with the goals of enabling natural gas distribution to promote economic development, and more varied and environmentally friendly fuel choices for residents. Also, the municipalities worked cooperatively with the knowledge that whatever model they could negotiate cooperatively with Heritage Gas, would likely be more acceptable than a tax model imposed by the Province.

DISCUSSION

The model being put forward by the UNSM Natural Gas Subcommittee is a three-part taxation model, as previously communicated to Council in May 2003. The features of the tax model are:

- 1) Regular tax on assets outside the right of way (Comm rate + B. Occ.)
- 2) Fixed formula asset taxation on high volume distribution assets, with some special features in the formula.
- 3) Taxation on gross distribution revenues 4% for years 2013 - 2017, and 5% thereafter.

A special exception has been incorporated to address situations where there may be a “single end user” or user that takes gas directly from an interprovincial gas pipeline and does not share the use of the interconnecting distribution pipeline with any other users, and is the only user in that particular rate class. In such cases, the high pressure gas distribution assets serving a single end user will be taxed at a rate of 8% of the gross distribution revenues.

BUDGET IMPLICATIONS

The proposed tax model results in a level of taxation much less than traditional rate times assessment; however, provides a higher level of taxation than municipalities would have seen under a Sempra style model, and a higher level than the Province of British Columbia legislated in support of their greenfield natural gas distribution development on Vancouver Island.

Present Value of Estimated Tax Revenues over 20 years, based on Heritage Gas Roll Out (all municipalities)				
Initial Heritage Gas Filing with UARB	Sempra Method	Current Proposed Model	UNSM Proposal	Traditional Assessment (estimate)
\$5.9 m	\$9.7 m	\$16.1 m	\$51.2 m	\$65 m

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the municipality's Multi-Year Financial Strategy; the approved Operating, Capital and Reserve budgets; policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves; as well as any relevant legislation.

ALTERNATIVES

The alternative is to choose not to support the model negotiated by the UNSM Natural Gas subcommittee with Heritage Gas. The likely impact would be that the Province would impose a tax model on all municipalities that may or may not look like the three-part model under discussion, and may result in lower tax revenues for HRM. Additionally, to withdraw support from the UNSM tax model would negatively impact the positive working relationships developed throughout this process with the UNSM, and with Heritage Gas.

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by:


Cathie O'Toole, CGA - Executive Assistant, CAO's Office