



**THE ISLAND REGULATORY AND  
APPEALS COMMISSION**  
Prince Edward Island  
Île-du-Prince-Édouard  
CANADA

**Docket: PM903**  
**Order: PC19-003**

**IN THE MATTER** of a determination of the minimum and maximum mark-up for the retail price of motor fuel pursuant to section 27 of the *Petroleum Products Act*, R.S.P.E.I. 1988, c. P-5.1.

**CERTIFIED A TRUE COPY**

  
Jonah Clements  
General Counsel  
Island Regulatory & Appeals Commission

**BEFORE THE COMMISSION ON** Thursday, December 19, 2019.

J. Scott MacKenzie, Q.C., Chair  
M. Douglas Clow, Vice-Chair  
John Broderick, Commissioner  
Terry McKenna, Commissioner

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**ORDER & REASONS FOR ORDER**

**IN THE MATTER** of a determination of the minimum and maximum mark-up for the retail price of motor fuel pursuant to section 27 of the *Petroleum Products Act*, R.S.P.E.I. 1988, c. P-5.1.

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## Reasons for Order

- [1] Pursuant to section 27 of the *Petroleum Products Act*, R.S.P.E.I. 1988, c. P-5.1 (the "Act") the Island Regulatory and Appeals Commission (the "Commission") initiated a review of the minimum and maximum retail fuel mark-up permitted to be charged by retailers to consumers for gasoline and diesel fuel ("margin or margins") to determine and to set, if necessary, new margins, which margins were last reviewed in 2012.
- [2] The Act provides the Commission with a broad mandate to regulate the distribution and sale of petroleum products in the province of Prince Edward Island to ensure that at all times a just and reasonable price is charged for retail motor fuels.<sup>1</sup> As part of this mandate, the Commission has general supervision over all retailers with respect to the pricing of motor fuel and the setting of minimum and maximum mark-up above the allowable wholesale price that retailers are permitted to sell retail motor fuel.<sup>2</sup>
- [3] The core issue before the Commission is whether the current retail margins for gasoline and diesel fuel are justified or does the information and data that has been collected by the Commission justify a change in the retail margins for gasoline and diesel fuel?
- [4] The current allowable retail margins for gasoline and diesel fuel are a minimum of 5.5 cents per litre ("cpl") to a maximum of 6.5 cpl for self serve gasoline and diesel fuel. The retail margins for full service gasoline and diesel fuel are a minimum 7.5 cpl to a maximum 10.5 cpl.
- [5] The Commission received a submission from a group of retailers ("retail association") requesting that the allowable margins be increased by 2.02 – 2.95 cpl. The retail association provided the Commission with very little information to justify the request for such an increase. The Commission, therefore, commenced work on obtaining data to determine whether or not any change in the margins was justified.
- [6] To assist in this review, the Commission had its senior financial officer develop a margin sensitivity analysis model ("model") for petroleum sales in the province based on low-, medium- and high-volumes of gasoline and diesel sales. Expenses common to all retailers were determined by applying the Canadian Industry Statistics for all retail outlets in Canada.

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<sup>1</sup> The *Petroleum Products Act*, R.S.P.E.I. 1988 c. P-5.1, Sec. 2

<sup>2</sup> *ibid* Sec. 27

The Commission determined that it should obtain further financial information from retailers. A questionnaire was designed and was sent to a sample of 30 retailers representing low-, medium- and high-volume gasoline and diesel sales. Of these 30 questionnaires, 18 retailers responded. In addition, a further 19 responses were received from various retailers outside of the sample that was taken. The Commission, therefore, received a total of 37 responses from various retail outlets. The responses, which all contained private financial information, were sought and received on a confidential basis. The responses were helpful in providing greater insight into the revenue and cost drivers of petroleum retailers.

- [7] The Commission compiled the information received, analyzed the revenue and expenses, and prepared a sensitivity analysis using various theoretical minimum and maximum margins.
- [8] Commission staff analyzed the data and the Commission engaged the services of the accounting firm of Fitzpatrick & Co. to conduct further reviews of the financial information provided to allow the Commission to determine whether or not a change in the allowable minimum and maximum margins was justified.
- [9] The Commission also received information from the New Brunswick Energy and Utilities Board ("New Brunswick Board"), that was also undertaking a review of retail margins for gasoline, diesel fuel and other petroleum products in that province. During the course of its review the New Brunswick Board engaged the firm of Gardner Pinfold Consultants Inc., experts in the field of economic market structure and competitive behaviour in regulated industries.
- [10] The Commission has had the benefit of receiving and reviewing the Gardner Pinfold report which, although it dealt with a review of the costs and expenses incurred in the retail motor fuel industry in New Brunswick, is also instructive with respect to gasoline and diesel retailers here in Prince Edward Island.
- [11] The Commission found that the financial information that was provided by the P.E.I. retailers was very similar to the information disclosed by New Brunswick retailers and summarized in the Gardner Pinfold report.
- [12] The Gardner Pinfold report concluded that an increase in the motor fuel retail margin of 0.3 cpl was justified. The New Brunswick Board accepted the recommendation and in its decision allowed for a 0.3 cpl increase in the allowable maximum retail margin, bringing the maximum to 6.8 cpl.<sup>3</sup>

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<sup>3</sup> *New Brunswick Energy and Utilities Board Decision-Matter No. 444 Petroleum Margin Review, November 6, 2019.* It should be noted that in the province of New Brunswick only the maximum retail margin is set for petroleum products and there is no minimum retail margin that must be charged to consumers.

- [13] The analysis conducted by the Commission staff and its external accounting experts using the model, provides justification for a 0.5 cpl increase in the retail margins for gasoline and diesel fuel.
  
- [14] The Commission, therefore, determines that the minimum retail margin for gasoline and diesel fuel shall increase by 0.5 cpl and the maximum retail margin for gasoline and diesel fuel shall increase by 0.5 cpl. The new minimum retail margin for self serve gasoline and diesel fuel shall be 6.0 cpl, and the new maximum retail margin for self serve gasoline and diesel fuel shall be 7.0 cpl. The margin increases shall be effective as of January 1, 2020. The margins shall continue in effect until otherwise determined by the Commission.
  
- [15] The Commission also reviewed the retail minimum and maximum margins for provision of full service sales for gasoline and diesel. Full service means having a retail staff person attend to the refueling of gasoline or diesel fuel to a consumer's vehicle. The minimum and maximum margins allowed for full service do not apply to self service refueling where the individual consumer attends to refueling gasoline and diesel fuel.
  
- [16] The Commission considered the historical requirement of retailers to charge a minimum extra margin for full service of at least 2.0 cpl above the self service price for gasoline and diesel fuel. The Commission can find very little justification to continue to have this intrusion into what otherwise would be a competitive market allowing retailers to offer competitive service to customers by providing full service fueling at a retail price that is the same as the self serve retail price. The Commission finds that the present minimum retail margin for full service refueling of 7.5cpl is to be reduced to 6.0cpl, consistent with the minimum retail margin for self serve refueling. The Commission does recognize that provision of full service refueling of retail gasoline and diesel can have an added expense for retailers. As such, the maximum retail margin for full service refueling is permitted to be set higher than self serve retail sales. The Commission finds that the existing maximum margin for full service refueling of retail gasoline and diesel fuel at 10.5 cpl is justified and shall continue.
  
- [17] In conclusion, the Commission sets the new retail margins for gasoline and diesel fuel as follows:

	Regular Gasoline		Mid-Grade Gasoline		Premium Gasoline		Diesel	
	Min-	Max-	Min-	Max-	Min	Max	Min-	Max-
<b><u>SELF-SERVE</u></b>								
Retail Margin	6.0	7.0	6.0	7.0	6.0	7.0	6.0	7.0
<b><u>FULL-SERVE</u></b>								
Retail Margin	6.0	10.5	6.0	10.5	6.0	10.5	6.0	10.5

- [18] The margins as determined herein shall be effective as of January 1, 2020 and shall continue until otherwise determined by the Commission. The Commission advises that the next review of these margins and the margin for furnace oil will be undertaken prior to December 31, 2021 in order to determine any change to be effective January 1, 2022.

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## ORDER

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**UPON** reading and reviewing the submission and other information filed herein;

**NOW THEREFORE** for the reasons given in the annexed Reasons for Order;

**IT IS ORDERED THAT:**

The minimum and maximum margins between the wholesale price to the retailer and the retail price to the consumer of motor fuel shall, as of January 1, 2020, be as follows:

	Regular Gasoline		Mid-Grade Gasoline		Premium Gasoline		Diesel	
	Min-	Max-	Min-	Max-	Min	Max	Min-	Max-
<b><u>SELF-SERVE</u></b>								
Retail Margin	6.0	7.0	6.0	7.0	6.0	7.0	6.0	7.0
<b><u>FULL-SERVE</u></b>								
Retail Margin	6.0	10.5	6.0	10.5	6.0	10.5	6.0	10.5

**DATED** at Charlottetown, Prince Edward Island, Thursday, December 19, 2019

**BY THE COMMISSION:**

*(sgd) J. Scott MacKenzie*

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J. Scott MacKenzie, Q.C., Chair

*(sgd) M. Douglas Clow*

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M. Douglas Clow, Vice-Chair

*(sgd) John Broderick*

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John Broderick, Commissioner

*(sgd) Terry McKenna*

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Terry McKenna, Commissioner