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July 11, 2019

Doreen Friis
Regulatory Affairs Officer/Clerk
Nova Scotia Utility and Review Board
1601 Lower Water Street, 3rd Floor
P.O. Box 1692, Unit "M"
Halifax, NS B3J 3S3

Re: M09096 – Approval of Supply Agreement for Electricity Efficiency and Conservation Activities between E1 and Nova Scotia Power Inc. (NS Power), the establishment of a final agreement between the parties, and approval of a 2020-2022 Demand Side Management (DSM) Resource Plan– Reply to Closing Submission

Dear Ms. Friis:

On July 4, 2019 NS Power Inc. (NS Power, the Company) filed its Closing Submission in this matter with the Nova Scotia Utility and Review Board (NSUARB). Closing submissions were also filed by EfficiencyOne (E1), the Consumer Advocate (CA), the Small Business Advocate (SBA), the Industrial Group (IG), the Berwick Electric Commission (Berwick), the Affordable Energy Coalition (AEC), the Ecology Action Centre (EAC), the Assembly of Nova Scotia Mi'kmaw Chiefs and Kwilmu'kw Maw-klusuaqn Negotiation Office and Heritage Gas (Heritage).

Please accept this Reply to Closing Submissions on behalf of NS Power. The Company does not intend to address all issues raised by E1 and the Intervenors in their Closing Submissions. Instead, this submission will focus on the key issues raised. With respect to any specific issues not addressed in this Reply to Closing, NS Power relies on its Closing Submission and its evidence as filed in this proceeding.

Consensus Agreement

The majority of the Closing Submissions express no opposition to the NSUARB approving the Consensus Agreement reached between NS Power and E1 on June 4, 2019. The CA observes that the Consensus Agreement represents a favourable outcome and should be considered favourably by the NSUARB; he also acknowledges that the Agreement is a reasonable balancing of interest and views.[1] The SBA also confirms his support for the Consensus Agreement, noting that it addresses issues raised by the SBA's consultant and lays the groundwork for future collaboration.[2] Counsel for the Industrial Group also confirmed that the Industrial Group is not recommending a reduction

[1] CA Closing Submission, July 4, 2019, page 1.
[2] SBA Closing Submission, July 4, 2019, page 1.

in the budgeted level for the 2020-2022 DSM Plan agreed to by E1 and NS Power under the Consensus Agreement.[3]

In addition to the main customer representatives, the AEC also confirmed that while it has concerns with respect to the level of funding proposed, it does not oppose the NSUARB's approval of the Consensus Agreement. Berwick says that the spending limits in the Consensus Agreement should be approved as requested. The Assembly of Nova Scotia Mi'kmaw Chiefs and Kwilmu'kw Maw-klusuaqn Negotiation Office supports the proposed level of funding for Mi'kmaw and low-income customers provided in the Consensus Agreement. EAC is the only intervenor which opposes the Consensus Agreement.

In light of the fact that the Consensus Agreement is in the best interests of customers for the reasons set out in NS Power's and E1's Closing Submissions and it is either supported or not opposed by the majority of intervenors in this proceeding, NS Power requests that the Consensus Agreement be approved by the NSUARB as filed.

Return of HST Refund through FAM

Clause 6 of the Consensus Agreement provides for the HST Refund, together with interest to be returned by E1 to NS Power and refunded to customers through the FAM. In addition to Berwick and the Assembly of Nova Scotia Mi'kmaw Chiefs and Kwilmu'kw Maw-klusuaqn Negotiation Office, both the SBA and IG have confirmed their support for the return of the HST Refund to customers through the FAM.

In his Closing Submission, the CA attributed a comment to NS Power about using the HST Refund as a "pilot project" for future DSM being collected and allocated through the FAM. Specifically, the CA stated:

> At the hearing, there was some comment from NSPI that the HST refund amount – if put through the FAM – would serve as a pilot project for the future automation of DSM-related cost collection and allocation. It is the view of the Consumer Advocate that automating DSM collection through the FAM is likely a much more complex process than the one-time crediting of an HST refund to customers.
>
> The Consensus Agreement seeks to have the HST refund returned to the benefit of ratepayers. Now that the BCF filing has occurred, it will be open to the Board to confirm that addressing the HST refund in the BCF process will not reduce (at all) the benefit ratepayers would receive if the HST refund was returned via a direct "on the bill" credit.

[3] IG Closing Submission, July 4, 2019, page 2.

The comment referenced by the CA arose from the following exchange between NS Power and Board Counsel:

> **MR. OUTHOUSE:** Okay, and question I asked you previously about allocation of this HST money ... because after all, that was collected from customers as a DSM charge. And will ... so will it be allocated back to customers through the FAM differently than a regular FAM charge?
>
> **MR. LANDRIGAN:** Yeah, yes, it would. So ... and again, we've done this on a number of occasions in the past where we've taken non-FAM monies and apportioned it to the FAM. So what we would do is ... is take those monies and ... and allocate them in accordance with how they were collected in ... under the DSM profile, sit down with stakeholders and make sure they're comfortable with how we've done the math and then present that to the Board for approval of how it would be incorporated in the FAM and how it would impact each individual customer class in the FAM.
>
> **MR. OUTHOUSE:** So in effect, the allocation of this refunded HST refund would be your pilot project for the larger scheme if all DSM funding going forward was managed through the FAM. This would be your first test of it, if I can put it that way.
>
> **MR. LANDRIGAN:** Sure. Okay.[4]

With respect to the apparent concern expressed by the CA's concern about ensuring customers receive the full benefit of their respective portions of the HST Refund, as noted by Mr. Landrigan in his testimony, there have been other instances where non-fuel items which have been incorporated and tracked through the FAM, ensuring customers receive their full entitlements. The FAM has been used to return money to customers on a number of occasions, even where the funds are not tied to fuel costs. For example, the Section 21 tax deferral Settlement Agreement for the return of earnings arising from the 2014 FAM Deferral Hearing (M06575) and the return of earnings beyond the approved range of return have flowed through the FAM since 2014. The South Canoe and Sable wind farm tax benefits were credited back to customers through the FAM under the *Electricity Plan Implementation (2015) Act*. Balancing of interclass loans from 2015 also flowed through the FAM as part of the 2017-2019 Fuel Stability Plan (M07348).

NS Power uses the appropriate cost of service or cost allocation methodology for all revenue and expense items. Fuel and purchased power related costs use the FAM cost of service methodology; DSM-related items will use the DSM cost allocation methodology that was previously approved for the DSM rider.

[4] Transcript, June 10, 2019, pages 101-102, lines 19-22 and 1-15.

The Company is confident that it can flow the HST Refund (and any future DSM amounts) through the FAM without affecting transparency. Information about non-fuel items and their inclusion in the FAM is available on a monthly basis through the FAM Calculation Model.

With respect to the broader issue of future DSM funding being expensed through the FAM, NS Power confirms its support for establishing a separate process to review the issue of DSM funding being expensed through the FAM with the participation of customer representatives and NSUARB staff.

Budget for Industrial Group Customer Classes

The IG noted differences between the information provided by NS Power in response to Undertaking U-2and information provided by E1 for the budget levels for the Medium and Large Industrial customer classes. NS Power is reviewing the information but confirms the Company will work with E1 and ensure it is addressed in the Compliance Filing.

Costs Requested by EAC

In its Closing Submission, the EAC requested recovery of costs in the amount of $24,019.75, which appears to be comprised of the costs of its external consultant as well the costs of an EAC employee (consisting of salary, benefits and overhead). The NSUARB can award costs to EAC, a non-profit organization, provided it satisfies the criteria set out in section 6(2) of the NSUARB's *Cost Rules*.

In the proceeding relating to the 2016-2018 DMS Supply Agreement, the EAC made a similar request for cost recovery and the NSUARB directed E1 and EAC to try reach a resolution on the issue.[5] E1 confirmed in its Compliance Filing for that proceeding that it had reached agreement with EAC over its request for costs. NS Power confirms it has no objection to E1 reaching a similar agreement with EAC over the issue of EAC's cost recovery for this proceeding.

NS Power thanks the NSUARB for the opportunity to provide these additional comments.

Yours truly,

Brian Curry,
Senior Regulatory Counsel

c. David Landrigan
Judith Ferguson
Nicole Godbout

[5] M06733, Decision, August 12, 2015, para 128.