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Demand Side Management (DSM) Advisory Group

Terms of Reference

Introduction

EfficiencyOne (E1) is the franchise holder of the Efficiency Nova Scotia (ENS) franchise. ENS is a franchise pursuant to Nova Scotia's *Public Utilities Act* ("*PUA*") with the exclusive right to supply Nova Scotia Power Incorporated ("NS Power") with reasonably available, cost effective electricity efficiency and conservation activities pursuant to the *PUA*.

Electricity efficiency and conservation activities ("EECA"), as defined by the *PUA*, means activities, programs or plans relating to:

- (i) the efficient use of electricity,
- (ii) the conservation of electricity,
- (iii) the alteration of the consumption pattern of an end user of electricity that has the effect of reducing demand during Nova Scotia Power Incorporated's periods of highest demand,
- (iv) the utilization or management by Nova Scotia Power Incorporated of its electrical system in a more cost-effective manner,
- (v) the delivery of a reduction in the amount of electrical energy or capacity that Nova Scotia Power Incorporated would otherwise be required to supply to its customers, or
- (vi) any other prescribed activities, plans or programs.

For the purposes of these Terms of Reference, EECA is also referred to as "demand-side management", or "DSM".

The Nova Scotia Utility and Review Board, (the "NSUARB"), maintains regulatory oversight of ENS with respect to DSM.

NS Power is a public utility as defined by the *PUA*. The NSUARB maintains regulatory oversight of NS Power as a public utility.

Pursuant to the *PUA*, NS Power is required to undertake EECA's that are reasonably available in an effort to reduce electricity costs for its customers by entering into an agreement with E1 for the supply of EECA.

Agreement for the supply of EECA between E1 and NS Power must be approved by the NSUARB.

The demand-side management resource plan, (the “DSM Plan”), forms the basis of the agreement between E1 and NS Power for the supply of EECA. The DSM Plan establishes the demand-side management investment levels and savings targets for a defined term, as mandated by the *PUA*.

Participation by Assembly of Nova Scotia Mi’kmaw Chiefs / Kwilmu’kw Maw-klusuaqn Negotiation Office

Notwithstanding anything to the contrary in this Terms of Reference, use of the terms “consult” or “consultation” in this Terms of Reference is not “consultation” as that term is defined in the government’s Duty to Consult as it relates to Mi’kmaw lands and rights. For greater certainty, it is acknowledged and agreed that participation by the Assembly of Nova Scotia Mi’kmaw Chiefs / Kwilmu’kw Maw-klusuaqn Negotiation Office in the DSMAG is not Mi’kmaw “consultation” within the meaning of the above-noted Duty to Consult.

Advisory Group

The DSM Advisory Group, (the “DSMAG”), is the current advisory group made up of key stakeholders in Nova Scotia’s electricity and energy sectors which provides input in the design and development of DSM Plans.

Chair

The DSMAG shall be chaired and facilitated by E1.

Specific responsibilities of E1 as Chair shall include:

- Scheduling and arranging DSMAG Meetings and Technical Session details, including providing the venue and/or conference calling facilities to accommodate the meetings and Technical Sessions;
- Development of focused DSMAG Meeting agendas in collaboration with stakeholder requests;
- Preparation of agenda for Technical Sessions;
- Directing and facilitating DSMAG Meetings, Technical Session discussions and determining matters to be addressed by Paper Process; and
- Preparation and posting of DSMAG Meeting minutes to the DSMAG SharePoint Site.

Composition

Membership in the DSMAG is intended to be representative of key stakeholder interests on matters relevant to DSM.

Membership of the DSMAG consists of, but is not limited to, a representative from each of the following:

- E1;
- Consumer Advocate;
- Small Business Advocate;
- Industrial Group representative;
- Assembly of Nova Scotia Mi'kmaw Chiefs / Kwilmu'kw Maw-klusuaqn Negotiation Office;
- Nova Scotia Utility and Review Board (counsel and/or staff);
- Nova Scotia Power Incorporated;
- Affordable Energy Coalition;
- Ecology Action Centre;
- Municipal Electric Utilities of Nova Scotia Cooperative;
- Nova Scotia Department of Energy and Mines;
- Union of Nova Scotia Municipalities; and
- HRM (currently included but not active)

(each a "Member").

Any organization in Nova Scotia with a demonstrated stakeholder interest in matters relevant to DSM may apply to E1 to become a Member. Upon receipt of such an application, E1 shall determine whether to accept the applicant as a Member, which decision shall be made at the sole discretion of E1.

All Members of the DSMAG are equal participants and contributors to its Objectives. The DSMAG benefits from direct and open dialogue on a without prejudice basis.

NS Power has a particular role within the DSMAG through:

- its status as the electric utility possessing key information required for DSM development and planning purposes;
- its contractual arrangements with E1 through the execution of a NSUARB approved Supply Agreement; and
- its role in collecting DSM funds from ratepayers

E1 and NS Power shall collaborate in a forthright and timely manner and shall provide their respective (or joint) positions to Members on all matters before the DSMAG.

Objectives

The administration and operation of the DSMAG is funded by Nova Scotia ratepayers, and it is in the best interests of ratepayers that the DSMAG functions as an effective advisory group, meeting the objectives set out herein.

The DSMAG is intended to be a consultative body only, without authority to bind the discretion of E1 in the operation of DSM franchise activities or its proposed DSM Plans.

In light of this focus, the objectives of the DSMAG are to:

1. Facilitate discussion and the sharing of Member perspectives in relation to demand side resource management in Nova Scotia; and
2. Facilitate a collaborative and comprehensive consultative and engagement process to enhance the development of future DSM applications and plans.

Facilitate Discussion and the Sharing of Member Perspectives

The DSMAG is a forum intended to facilitate the timely sharing of information, exchanging of ideas, and meaningful discussion among Members on current or emerging DSM issues that are the responsibility of E1 and/or NS Power pursuant to the provisions of the *PUA*. Each Member is entitled to advance its own interest in DSMAG discussions.

Deliverables:

To achieve this objective, the DSMAG shall:

- Consider and discuss any emerging and/or key DSM issues;
- Consider and discuss the respective responsibilities of E1 and NS Power in relation to future DSM applications generally;
- Consider and discuss any issues identified in NSUARB Orders pertaining to DSM in general, and to E1 and to NS Power in particular;
- Consider and discuss interim DSM Plan variances and updates, including review of:
 - the annual forecast information for savings targets and spending filed by E1 in its quarterly and annual progress report; and
 - DSM Plan period forecast information (in the case of three-year DSM Plans) filed by E1 in the Annual Progress Reports; and
- Consider and discuss any other relevant DSM issues as deemed appropriate by the DSMAG.

In addition, E1 may, at its sole discretion, engage the DSMAG on other issues such as evaluation, reporting, mid-term program modifications, technical reference manual and performance metrics, filings or other reports.

To facilitate these discussions, E1 will maintain a list of current and emerging DSM issues to be brought forward to the DSMAG for consideration on the DSMAG SharePoint Site. Members of the DSMAG may suggest items for this list at any time by submission to the E1 Chair via email at DSMAG@efficiencyns.ca. These items will be discussed at relevant DSMAG Meetings. Where considered appropriate by E1, E1 will organize and administer Technical Sessions around key DSM issues.

E1 will prepare a focused agenda in advance of DSMAG Meetings and Technical Sessions, identifying the issues to be addressed. At all DSMAG Meetings and Technical Sessions, Members should be prepared to address the issues on the agenda and provide meaningful feedback.

DSM Resource Plan Development and Application

The DSMAG shall provide a forum for E1 to provide detail on its programs for the benefit of Members and the sectors they represent, and to engage Members in focused and collaborative discussions in relation to the development of future DSM Plans. The DSMAG will adopt an engagement process for the development and review of future DSM plans that is timely and facilitates meaningful participation by all Members in advance of the submission of an application for approval of a DSM Resource Plan to the NSUARB.

Deliverables:

To achieve this objective, the DSMAG shall complete the following tasks and deliverables:

- Establish a framework that will facilitate future DSM Plan development by:
 - o Adopting a recommended format for joint filing of DSM applications consistent with existing legislation;
 - o Developing a methodology and process for ensuring current avoided costs information is regularly updated and available;
 - o Considering whether a process to evaluate the DSM Evaluation Reports and DSM Verification Reports separate from the DSM Resource Plan process is required, and if so, the nature of that process;
 - o Identifying agreed criteria to determine DSM program affordability (as defined within the *PUA*); and
 - o Establishing a timeline for the development and stakeholder consideration of DSM Plan scenarios, including any alternate scenarios, prior to submission to the NSUARB.

- Review and consider long-term DSM planning levels during each Integrated Resource Plan (IRP);
- Review and consider the methodology for analyzing rate and bill impacts for future reporting and DSM proceedings; and
- Review and consider payback periods in the context of incentive level setting.

In particular, annually, prior to June 30 of each year, E1 shall develop (and post on the DSMAG SharePoint Site) an 18 month calendar outlining specific timelines for discussions and Member considerations. E1 shall regularly maintain and update this calendar to ensure it contains all upcoming DSMAG timelines for an 18 month period.

Positions taken by stakeholders in the development of DSM Plans may be conveyed without prejudice during this consultative and collaborative DSMAG process. However, it is intended that this engagement process serve as a platform to address and resolve issues and concerns in advance of regulatory proceedings for the purpose of narrowing issues in dispute among Members.

Facilitate a Reduction in and Ease the Burden of Regulatory Proceedings

Members recognize and acknowledge that an ancillary benefit and outcome of the DSMAG, achieved through the two above-noted objectives, is the streamlining of regulatory proceedings by reducing and easing the burden of such proceedings.

The DSMAG is focused on early engagement of Members with respect to key DSM issues and matters that E1 proposes to bring before the NSUARB for review and approval. It is intended that Members collaborate and work towards narrowing issues brought before the NSUARB for adjudication. Such collaboration is intended to ease the burden of regulatory proceedings on all Members and promote efficient regulatory proceedings, ultimately benefitting the ratepayers.

Deliverables:

To achieve this outcome and benefit, the DSMAG shall develop and adopt a process whereby:

1. E1 shall identify, in a timely manner, proposed applications, requests or questions for determination it intends to file with the NSUARB, which fall outside of its usual reporting and filing requirements. In so doing, E1 will identify:
 - a. the purpose of its application;
 - b. the relief sought;
 - c. the timeline for filing;
 - d. the timeline for Member feedback; and
 - e. any other relevant information the stakeholders may require in consideration of the particular matter.

2. Where considered appropriate by E1, E1 may schedule DSMAG Meetings and/or Technical Sessions to address any such matters identified by E1.
3. The Members may provide constructive comments and feedback on any such matters identified. In particular, E1, in consultation with Members shall develop and direct specific pre-regulatory timelines for submission of Member comments on any matter intended to be brought before the NSUARB. The Members acknowledge that timely and complete feedback to E1 is important to reduce or limit the scope of contested regulatory matters referred to the NSUARB for determination, and the Members recognize the importance of meeting such timelines. This consultative process, including any DSMAG meetings and/or Technical Sessions, shall be referred to as the "Prehearing Process".

Submissions and comments made by DSMAG Members in the Prehearing Process shall be made without prejudice to a Member's right to file comments or take any position in a subsequent regulatory proceeding. For greater certainty, all submissions, comments, and/or positions taken by any Members in the DSMAG meetings or technical sessions shall be considered as confidential by Members and shall not be reproduced or made public, directly or indirectly, by any Members, including any future regulatory proceeding. However, Members shall use best efforts to ensure that their positions raised in the Prehearing Process reflect the positions they will take in any subsequent regulatory proceeding on the matter.

Member-Initiated Agenda Items

Any Member may request that the Chair include an Agenda item for a DSMAG meeting. Where such a request is made, the Member shall provide a written summary of the proposed Agenda item to the Chair at least two (2) weeks in advance of the next scheduled DSMAG Meeting. This summary shall include all details surrounding the background and objective of the Agenda item.

Upon receipt of the summary, the Chair will place the proposed item on the Agenda for the upcoming DSMAG Meeting for consideration by Members; or ask for further information with respect to the proposed item, and upon receipt of same, place it on the Agenda for the upcoming DSMAG Meeting for consideration by the Members.

The Member making the proposal shall provide the Chair with all materials supporting the item at least three (3) business days in advance of the upcoming DSMAG Meeting. The Chair will upload such materials on the DSMAG Share Point Site for review by Members upon receipt of same.

The Member may present the Member-initiated item and answer any questions or concerns posed by other Members at the DSMAG Meeting, according to the Agenda for that DSMAG Meeting.

After such presentation, the Members may discuss what, if any, action they wish to take on the Member-initiated item. Other Members are not compelled to adopt any suggestions or proposals submitted by any one Member.

Narrowing Issues in Dispute

To the extent possible, the Members shall attempt to narrow issues in dispute, and resolve disagreements.

With respect to issues arising in proceedings that are to be determined by the NSUARB, E1 may, in its sole discretion, choose to initiate a process to narrow issues in dispute among Members. Where E1 initiates such a process the following steps will be taken:

1. The Chair will place the issue on the agenda for the upcoming DSMAG Meeting.
2. The Chair will prepare a chart setting out the issue in dispute, the position(s) of the Members on the issue, and the rationale for the position taken by Members.
3. The Chair will upload the chart to the DSMAG Share Point Site at least three (3) business days in advance of the DSMAG Meeting.
4. At the DSMAG Meeting, the Chair will present the chart and lead discussion in an attempt to determine if a consensus on the issue is possible.
5. If, after a reasonable period of time, the Chair determines a consensus on the issue is not possible, then the Chair will lead discussion by the Members on how the issue should be brought before the NSUARB for determination.
6. If, after a reasonable period of time, the Chair determines consensus is not possible on the procedure for bringing the issue before the Board, then the Chair shall, in a timely manner, bring the issue before the NSUARB for determination.

Where Members are unable to reach agreement on issues that are not proceeding before the NSUARB for determination, the Chair may, in its sole discretion, choose to find an effective and efficient approach to responding to and attempting to resolve any such issues, where possible.

Meetings

Three (3) DSMAG Meetings will be pre-scheduled to occur approximately every four (4) months during a calendar year.

E1 shall schedule additional DSMAG Meetings as it deems necessary, in its sole discretion. Members may request additional DSMAG Meetings for specific subjects. The necessity of any such additional meeting shall be determined by E1, acting reasonably.

Paper Process

Should the Chair of the DSMAG determine that a matter may be better dealt with by way of written exchanges among the Members rather than by attendance at a DSMAG Meeting or Technical Session, the Chair will communicate this intention to address the issue by way of a paper proceeding, and shall set out applicable timelines for responses and final resolution. Proceeding by way of a paper process shall be without prejudice to the right of any Member to raise a matter as a DSMAG meeting or to request that it be added to the agenda for and in person DSMAG Meeting or Technical Session.

Meeting Agenda

The Chair will develop the agenda for each DSMAG Meeting in collaboration with stakeholder and Member requests. Members shall email agenda requests to the Chair at DSMAG@efficiencyns.ca.

An agenda, together with relevant supporting material, including any Power Point or similar presentations, will be posted to the DSMAG SharePoint Site at least three (3) full business days in advance of the meeting date, to allow for review by Members in advance of the Meeting.

Meeting Running Order

The running order for DSMAG Meetings will generally follow a set structure. The following assumptions will apply to the running order of DSMAG Meetings:

- i. meetings will open with short updates from the Chair or from other invited stakeholders;
- ii. the Chair will then present agenda items to the group;
- iii. the group will discuss each agenda item in an open format facilitating discussion amongst all participants;
- iv. other Members presenting on specific agenda points will do so at the relevant time;
- v. minutes will be taken, and actions recorded by a representative of E1. These will subsequently be posted to the DSMAG SharePoint Site following the meetings. Minutes will include a list of attendees and any key points raised under each agenda item as well as any actions or outcomes to emerge; and
- vi. meetings may be extended from time to time where there are additional items to discuss.

Technical Sessions

Technical Sessions shall be held for any DSM technical matter that E1 intends to bring before the NSUARB for determination, including, but not limited to, an application for a DSM Plan.

The purpose of each Technical Session is to address a key DSM issue that will require review and consideration by the NSUARB. The process is intended to facilitate a full and complete exchange of positions on a without prejudice basis – all of which is intended to reach consensus on as many issues as possible with the result of reducing time and cost associated with the regulatory proceedings through the engagement of expert consultants. A Member's technical consultant(s) may participate in Technical Sessions.

E1 shall direct and facilitate all Technical Sessions.

E1 shall be responsible for preparing an agenda and providing relevant materials and information to Members. Materials and information shall be presented to Members in a timely manner, to permit reasonable opportunity for Members and their experts' preparation for the Technical Session.

Attendance & Participation

Attendance at DSMAG Meetings, Technical Sessions, and other forms of participation in DSMAG processes is not mandatory, but is strongly encouraged and highly valued.

Records Management

E1 shall be responsible for maintaining a DSMAG SharePoint Site as a central repository for all DSMAG documents. All Members of the DSMAG will have access to this SharePoint site.

DSMAG documents maintained on the DSMAG SharePoint Site include:

- Terms of Reference;
- Calendar of Meetings;
- Meeting Agendas;
- Meeting Minutes;
- Status of Action Items from previous meetings;
- List of current and emerging DSM issues for consideration;
- Updated 18 month calendar setting timelines for DSMAG topics;
- Relevant research, studies and consultant reports;
- Technical Session agenda and materials; and
- Information submitted by Members for sharing and reference.

Review and Amendment of these Terms of Reference

The DSMAG will review these Terms of Reference annually. Any proposed change to these Terms of Reference shall be provided in writing to the existing Members and be agreed upon in writing by a majority of not less than two thirds of the existing membership of the DSMAG.