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Delivered by E-mail

Crystal Henwood
Regulatory Affairs Officer/Clerk
Nova Scotia Energy Board
3rd Floor, 1601 Lower Water Street
PO Box 1692, Unit "M"
Halifax NS B3J 3S3

Dear Ms. Henwood:

Re: M12282 - E1- New Benefit Cost Analysis Test for Evaluating DSM Plans

These closing submissions are filed on behalf of the Industrial Group.

Efficiency One ("**E1**") has applied to the Board for approval of a new benefit-cost analysis ("**Proposed BCA**") test to be used as the primary test for assessing cost-effectiveness of all future demand-side management ("**DSM**") plans. It is proposed that this test, as filed, be applied for the upcoming five-year DSM plan for 2027-2031. The proposed new methodology incorporates several non-energy related impacts, including broad societal costs based on a "social cost of carbon". The Industrial Group objects to the use of the Proposed BCA as the new primary cost-effectiveness test.

The Board's review of E1's application can be divided into three main questions:

1. Can the Board quantify and account for non-energy benefits and broad societal impacts within a new cost-effectiveness test for DSM under the *Public Utilities Act*, RSNS 1989, c 380 ("***PUA***")?

2. *Should* the Board quantify and account for non-energy benefits and broad societal impacts, as included in the Proposed BCA?

3. If the Board cannot or should not approve the Proposed BCA as the primary test for DSM programming, what test should alternatively be used for assessing DSM?

E1 has filed a partial "Consensus Agreement" with three of the Intervenors in this proceeding: the Consumer Advocate ("**CA**"), the Small Business Advocate ("**SBA**"), and East Coast Environmental Law ("**ECEL**")[1]. These parties accept the Proposed BCA as filed as a suitable DSM cost-effectiveness testing methodology subject to some changes to the proxy values for host customer non-energy impacts. The Industrial Group was not apprised of these negotiations or

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[1] E-32, Partial Consensus Agreement.

settlement until it was filed immediately preceding the opening of the hearing and does not support the Board's acceptance of the terms of the settlement as reasonable and in the best interest of ratepayers.

The Industrial Group submits that the Board cannot and should not take into consideration broad non-energy impacts, and particularly the social impact of carbon, and recommends that the Board not endorse the Proposed BCA as the primary cost effectiveness test. Rather, the Industrial Group relies on the evidence filed by its consultant, Patrick Bowman and specifically supports his recommendation to use a Program Administrator Cost ("**PAC**") test as the primary cost-effectiveness testing for DSM, with secondary tests to inform the Board's decision-making regarding the DSM Plan, Programs and Activities (or Measures).

1. THE BOARD CANNOT ACCOUNT FOR BROAD SOCIETAL IMPACTS, OR NON-ENERGY IMPACTS

Background and Principles of Statutory Interpretation

This application arose out of the Board's direction to undertake a "thorough assessment of the relative merits of both the PAC test and a jurisdiction-specific test,"[2] as had been suggested by E1 during the last three-year DSM Plan application.

In response, E1 retained Energy Futures Group ("**EFG**") and began engagement with the DSM Advisory Group (the "**DSMAG**") to develop a jurisdiction-specific test. During the course of work, the Province of Nova Scotia made various amendments to the *Public Utilities Act*, RSNS 1989, C.380 ("***PUA***") and overriding energy framework within the Province of Nova Scotia. The evidence filed by E1 and EFG outlines a Proposed BCA, representing a broad societal test, and there is nothing within the filing providing a comparative analysis from E1 or EFG in relation to the PAC.

When this issue was raised by Board Member Murphy during the hearing for this matter, the explanation was that the analysis regarding the merits of the PAC is "implicit" in the process used, since the focus was simply on what cost-effectiveness test best reflects their views of Nova Scotia's policies.[3] It appears that E1 tasked EFG to develop a recommended primary test, and not to undertake the directed analysis of relative merits to the PAC.[4] The Industrial Group offers the evidence of Mr. Bowman as filling that gap.

The Board previously determined that it has no jurisdiction to account for non-energy impacts under the legislative scheme in place in 2020.[5] E1 has taken the position in this Application that the recent amendments materially change the Board's jurisdiction and its authority over DSM.

The issue for the Board at the first stage is how to interpret the legislation governing the regulation of E1's mandate, having regard to the overall object of the *PUA,* provisions of the *PUA*, intent of

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2 Efficiencyone (E1) (Re), 2022 NSUARB 137, at para 72.

3 Transcript, Day Two, September 23, 2025, page 258-260.

4 Transcript, Day Two, September 23, 2025, page 265: Mr. Hill testified that "the task we were asked to undertake was to come up with a recommendation for the primary test, the optimal test, so if the PAC test fails in that essential -- you know, those essential functions, it does not meet the primary test -- you know, what the primary test should be doing."

5 Efficiencyone (Re), 2020 NSUARB 56, at paras 4. See also paras 36-37, and 47.

the legislation and the meaning of the words used in the *PUA*. This interpretive exercise falls within the Board's general oversight over electricity utility regulation.

In the Board's most recent ACE decision, *Nova Scotia Power Incorporated (Re)*, 2025 NSEB 8 ("**2025 ACE Decision**"), the Board confirmed the relevant principes of statutory interpretation. The Board referenced the Court of Appeal's findings in *Sparks v Holland*, 2019 NSCA 3, at para 200, which articulates the applicable considerations:

> *[28] This Court typically asks three questions when applying the modern principle. These questions derive from Professor Ruth Sullivan's text, Sullivan on the Construction of Statutes, 6th ed (Markham, On: LexisNexis Canada, 2014) at pp. 9-10.*
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> *[29] Ms. Sullivan's questions have been applied in several cases, including Keizer v. Slauenwhite, 2012 NSCA 20, and more recently, in Tibbetts. In summary, the Sullivan questions are:*
>
> *1. What is the meaning of the legislative text?*
>
> *2. What did the Legislature intend?*
>
> *3. What are the consequences of adopting a proposed interpretation?*[6]

In the 2025 ACE Decision, the Board recognized that when interpreting the provisions of the *PUA*, it can now consider other, broader policy factors:

> *[202] … in addition to the traditional least-cost option approach to public utility regulation, the Board can now consider such factors such as competition, innovation, coordinated and transparent energy-supply planning and sustainable development. These involve broader policy issues than pure economic regulation based on the least-cost option approach. Given the expanded nature of the factors the Board can consider, it would not be reasonable to take a restrictive approach…*

In other words, while an economic least-cost approach to regulation is foundational, policy factors may also be used to give meaning to the specific words in the *PUA*. The approach was not that the additional consideration can alter the meaning of the *PUA*, but rather, can be used to better understand the meaning of the language used. The Board was careful in its reasoning to ensure that the interpretation was in harmony with the overall scheme of the *PUA*.[7] While the Board will consider the meaning of the word within the context of the policy factors, the words must still be given their ordinary meaning within the context or overall policy directive of the *PUA.*

While broader legislative objectives— such as promoting sustainability— may inform the context in which a statute is interpreted, the Industrial Group submits that these goals cannot override or

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[6] Referenced by the Board in the 2025 ACE Decision, at para 200.

[7] 2025 ACE Decision, at para 202.

alter the clear and specific language used. These considerations may guide the interpretation where ambiguity exists, but do not expand or redefine the statutory mandate of the utility.

The Board must use the governing principles of statutory interpretation to give meaning to the applicable provisions of the *PUA* in determining the appropriate cost-effectiveness test to use for DSM.

Applicable Legislative Provisions for Cost Effectiveness Testing

The issue before the Board now, is what costs and what benefits should be weighed when evaluating DSM. Energy efficiency and conservation activities are contained within their own section 79, and specifically ss 79A-79W of the *PUA.*

The analysis must start with the overall legislation to give meaning to these provisions. The purpose of the *PUA* is well known: to regulate the operations of utilities, such as NSPI and E1, which is "deemed to be a public utility in relation to its franchise activities".[8] The Nova Scotia Court of Appeal has confirmed that "…[t]he scheme of regulation established by the Act envisages and indeed compels control by the Board of all aspects of a utility's operation in providing a controlled service…"[9]

NSPI is the energy provider and collector of rates, and E1 provides energy efficiency services as a franchise holder for NSPI, "with exclusive right to supply Nova Scotia Power Incorporated with reasonably available, cost-effective demand-side management for the purpose of this Act" (79C(2)(a)). The *PUA* requires NSPI to enter into an agreement with the franchise holder, E1, for the supply of the energy efficiency and conservation activities and sets out the parameters of that relationship.

E1's foundational role in executing NSPI's operational responsibilities must be a central consideration in establishing a cost-effectiveness test that aligns with the objectives and statutory obligations set out in the *PUA*. As described by Mr. Bowman, E1 is effectively NSPI's "arms and legs"[10] with respect to efficiency programming. What E1 does has a direct impact on NSPI.

The Board has general supervision over E1 as the franchise holder (s79G(1)) and must determine cost-effective DSM to be undertaken for the purpose of the *PUA* (s. 79H(1)). It is then NSPI that must undertake cost-effective DSM that is both reasonably available and focused on reducing costs for its customers (see s 79I(1)). Above all, the focus for DSM proposed requires the Board to be satisfied that the proposed DSM is "in the best interest of NSPI's customers" (s. 79L(4)).

The *PUA* specifies what DSM means:

> *79A(b) "demand-side management" means activities, programs or plans relating to*

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8 *PUA*, s. 79G(2).

9 *Nova Scotia (Public Utilities Board) v. Nova Scotia Power Corporation,* 1976 CanLII 1234 (NSCA), at para. 17.

10 Transcript, Day Two, September 23, 2025, page 365.

> *(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) strategic electrification of energy end uses currently powered by fossil fuels in a manner that reduces overall greenhouse gas emissions and electricity costs,*
>
> *(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.*

The costs of those activities, programs and plans are then recovered from NSPI through rates. The focus on reducing costs for ratepayers is integral when evaluating what DSM must be undertaken by NSPI through these programs. The analysis of DSM must ensure programming is completed in the best interest of ratepayers. Cost effectiveness testing is the screening tool used to do so.

As outlined by Mr. Bowman, the cost-effectiveness test used will ultimately guide the decisions E1 will make in developing the plan.[11] It signals the directional goals of E1 and is the first line of guidance to the franchise holder for NSPI. The approved cost-effectiveness test will signal what the main focus of the DSM programming should be: societal impact, or direct costs to the utility and ratepayers. The focus for E1, based specifically on the language of the *PUA*, should first and foremost be the reduction of costs for customers.

The main change to the *PUA* since the last DSM Plan approval that impacts E1's programming and planning, is the addition of strategic electrification as part of the definition of DSM. Notably, electrification is not unbounded. These programs must be formulated in a way that both: (1) reduces overall greenhouse gas emissions; <u>and</u> (2) reduces electricity costs. The emphasis on reducing electricity costs is consistent with the *PUA*'s focus on cost-effectiveness of these programs, and the specific role for E1 to address energy-based efficiency and conservation. This provision has not expanded E1's mandate beyond energy impacts.

The *PUA* has also been amended to specify the level at which the Board must evaluate the cost-effectiveness of a DSM plan:

> *79I(2) The Energy Board, in evaluating a franchise holder's application pursuant to Section 79L, shall evaluate the proposed cost-effective demand-side management at the portfolio level that would be the aggregate amount of demand-side management programs.*

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[11] Transcript, Day Two, September 23, 2025, page 411-412.

Prior to this amendment, the Board had established its own approach to cost-effectiveness testing at the program level, while also taking into consideration cost-effectiveness at the measure level. It was within the Board's discretion to approve plans that did not pass at the program or measure level based on an overall review of the need and benefits of any such program proposed. This overriding discretion remains.

E1 has accepted that the Board may continue to apply cost-effectiveness testing at both the program and/or measure level in making any determination on a DSM Plan.[12] It appears that E1 has retreated from or refined its original position that the test should apply at the portfolio level with all other tests to be provided for "informational purposes"[13] or "informational only".[14] E1 has explained it is committed to various levels of testing for cost-effectiveness, that is consistent with past practices. This was confirmed by Ms. Thompson during cross examination:

> *Q. Okay. So is it open to the Board to consider that information notwithstanding that E1's portfolio meets or exceeds a 1.0 cost effectiveness?*
>
> *A. (Thompson) Our understanding is that if our portfolio does not meet a cost effectiveness result of one or greater, it may not be even considered by the Board as an application.*
>
> *Q. Sure. But can the Board look deeper into the portfolio and direct changes based -- you know, at the program or measure level based on the additional information provided?*
>
> *A. (Thompson) Yes, it can, and it has.*
>
> *Q. Okay. So it can continue to accept or reject elements even if, at the portfolio level, the plan passes a 1.0 cost effectiveness?*
>
> *A. (Thompson) Yes. And E1 has not proposed that there are any changes to that.*[15]

Accordingly, despite the suggestion in evidence that use of the Proposed BCA as the primary test at the portfolio level was determinative, E1 has clarified that it does not view the legislative amendments as restricting the Board's discretion and its use of additional or secondary testing, provided at a more granular level.

The conflicting opinions as between E1 and Patrick Bowman on the use of primary and secondary tests issue appears to be a semantic difference, rather than a substantive one. All agree that the Board has the discretion to consider more than one test in its decision-making, at more than one

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12 Transcript, Day One, September 22, 2025, pages 171-173; and Transcript, Day Two, September 23, 2025, page 256-257.

13 E-24, E1 Rebuttal Evidence, page 3, lines 25-26.

14 Transcript, Day One, September 22, 2025, page 165.

15 Transcript, Day One, September 22, 2025, pages 173-174.

level of granularity, and E1 is not now suggesting that the Board is precluded from considering any secondary testing.[16]

Prior Interpretation of the Board's Jurisdiction

Up until this application, the predecessor Board made clear that it did "not have the jurisdiction to take into account non-energy impacts in cost-effectiveness testing" in relation to DSM.[17] The costs and benefits considered with respect to DSM needed to be energy based. The decision reasoned as follows:

> *[36] EfficiencyOne also argued that a legislative intention for the Board to account for a broader environmental context when considering the best interests of customers under the Public Utilities Act was evidenced in comments made by the Minister of Energy in 2009, when the bill leading to the enactment of the Efficiency Nova Scotia Corporation Act, S.N.S. 2009, c. 3, was introduced in the House of Assembly. EfficiencyOne replaced the Efficiency Nova Scotia Corporation as the demand-side management provider in 2014.*
>
> *[37] The Board agrees with the submissions of the Industrial Group that the open-ended interpretation urged by EfficiencyOne is not appropriate. <u>The Board's jurisdiction, as noted by the Industrial Group, is to determine what is in the best interests of customers and must be necessarily limited by the statutory definition of "electricity efficiency and conservation activities" outlined in Section 79A(b)</u>.*

[Emphasis added]

The Board went on to say:

> *[47] The Board finds that "cost-effective" means considering the "electricity efficiency and conservation activities" of EfficiencyOne, as defined in the Public Utilities Act, to determine whether they are "affordable" and result in the lowest long-term cost of electricity.*

In that decision, the Board determined there was not a separate environmental mandate for E1, however, there were some environmental benefits.[18]

The only relevant amendment to the efficiency and conservation provisions in the *PUA* since this decision was the addition of strategic electrification to the meaning of DSM. That, in and of itself, should not be interpreted to expand the Board's jurisdiction to now take into consideration a broad range of non-energy benefits with respect to all other energy efficiency or demand response programs. The prior definition of DSM has largely remained, with simply the addition of strategic electrification.

It is important to note that the reference to GHG emissions within the definition of DSM specifically pertains to strategic electrification and remains subject to the overarching goal of reducing

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16 Transcript, Day One, September 22, 2025, page 164-165.

17 Efficiencyone (Re), 2020 NSUARB 56, at paras 4.

18 Efficiencyone (Re), 2020 NSUARB 56, at para 38.

electricity costs for customers. The Board should not ignore the location of that consideration, nor the qualifier that it must also reduce costs to ratepayers. The inclusion of that factor does not mean that non-energy benefits should now be added to the cost-effectiveness testing for DSM for all other programs.

E1 acknowledged during cross-examination that strategic electrification programming must both result in a reduction of electricity cost and overall GHG emissions.[19] Yet, the Proposed BCA has specifically been developed in a way that does not test whether the activities reduce electricity costs.[20] In response to Board IR 6 (b), E1 has explained:

> *The proposed benefit cost analysis (BCA) is not a test intended to demonstrate whether proposed strategic electrification activities reduce electricity costs. The proposed BCA is intended to demonstrate whether the benefits outweigh the costs for proposed demand side management (DSM) activities, including for strategic electrification, based on the benefits and costs that are included in the test.*
>
> *… Through the development process for the 2027-2031 DSM Plan, E1 is exploring how to demonstrate reductions in electricity costs resulting from strategic electrification.*[21]

On questioning by counsel for Eastward Energy, E1 was not able to provide any such update regarding the efforts being made to demonstrate reductions in electricity costs.[22] The failure to meaningfully advance that analysis is particularly concerning given that E1 anticipates filing the five-year DSM Plan in early 2026.[23] As Mr. Bowman noted, the ultimate cost-effectiveness test will shape the programming from the ground up. Since E1 does not appear to prioritize reducing electricity costs, this focus does not seem to be embedded in the DSM plan blueprint, at least not yet.

E1 has seemingly ignored the main focus of its mandate under the *PUA* and focused only on the first half of the new category of programming to justify its broad ranging Proposed BCA.

Beyond the *PUA* amendments, the legislature has enacted the *Energy and Regulatory Boards Act*, SNS 2024, c 2 ("**ERBA**"), which has created the Energy Board and outlines the powers and duties of this Board. In justifying the Proposed BCA, E1 has relied on the following provision:

> *6(2) In approving or fixing rates, tolls, charges, tariffs, capital applications and all other matters over which the Energy Board has authority, the Board shall give appropriate consideration to the extent to which such rates, tolls, charges, tariffs, capital applications or other matters*

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[19] Transcript, Day One, September 22, 2025, pages 39-40.

[20] E-5, E1 (NSEB) RIR – 6(b).

[21] E-5, E1 (NSEB) RIR – 6(b).

[22] Transcript, Day One, September 22, 2025, pages 41-42.

[23] Transcript, Day One, September 22, 2025, page 48.

> *(a) support competition and innovation in the provision of energy resources in the Province;*
>
> *(b) support the development of a competitive electricity market;*
>
> *(c) ensure the provision of safe, secure, reliable and economical energy supply in the Province;*
>
> *(d) support sustainable development and sustainable prosperity; and*
>
> *(e) support such other factors as prescribed by the regulations, with the goal of approving rates, tolls, charges, tariffs, capital applications or other matters that are consistent with the purpose of this Act, the* More Access to Energy Act *and the regulations.*[24]

[Emphasis added]

E1 has only relied on subsection (d) within its reasoning for why non-energy benefits may now be considered. It suggests that the Board now has jurisdiction to consider non-energy and societal benefits because it can consider "*sustainable development and sustainable prosperity*". This, however, ignores the fact that while the Board must give "appropriate consideration to the extent to which…" any of those factors are supported, this does not change the specific mandates under the *PUA*. The provision directs the Board to turn its mind to several factors when rendering a decision but very much leaves open what is "appropriate" consideration.

The Industrial Group respectfully disagrees with E1's proposed interpretation of the legislative framework and the provisions of the *PUA*, including any reliance on the *Environmental Goals and Climate Change Reduction Act* or *More Access to Energy Act.* The changes that have occurred since the Board's last decision on this matter have not fundamentally altered its jurisdiction. E1 has placed disproportionate emphasis on two of the additional factors, to unjustifiably extend its mandate beyond the plain language of the Act. This interpretation stretches the analysis too far and places excessive weight on a singular aspect of the Board's discretionary powers.

The Board Still Cannot Account for Non-energy Benefits

The Industrial Group recognizes that certain recent legislative amendments may impact the ongoing interpretation of the *PUA* provisions. However, the additional factors provide guidance but do not fundamentally alter the scheme of the franchise arrangement with NSPI, or its main goal to reduce electricity costs for customers. The additional consideration relating to sustainability and GHG emissions, must be given "appropriate consideration" in the circumstances, and further the goal of reducing energy costs.

While the environmental goals articulated by E1 are admirable and important, the Board must breathe life into the specific provisions of the *PUA* and not effectively re-write legislation with certain policy objectives it deems most important. E1's role is constrained by statute. E1's franchise mandate continues to relate to achieving electricity-based efficiency and conservation.

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24 *Energy and Regulatory Boards Act*, SNS 2024, c 2, s.6(2).

It remains outside the legislative framework to evaluate cost-effectiveness that has no direct impact on the furtherance of its statutory mandate to reduce costs.

The Industrial Group submits that the addition of strategic electrification and the considerations in the *ERBA,* properly interpreted, permit the consideration of certain environmental impacts but it does not displace cost-effectiveness as the scheme's overarching purpose. The impact on GHG emission reductions can be incorporated into a PAC or a Total Resource Cost ("**TRC**") test without extending this to broader social impacts of carbon on the environment, health, agriculture, etc. While E1 has placed undue emphasis on the first part of the strategic electrification provision – the reduction in GHG emissions – it seemingly ignores the latter portion of the provision; strategic electrification must also *reduce electricity costs*. E1 has, without reservation, confirmed that the Proposed BCA does not intend to demonstrate whether activities reduce electricity costs in this regard.[25]

The mandate for E1 has not been fundamentally altered by the statutory amendments and enactments, and the cost-effectiveness testing should also not be fundamentally changed to include a broad array of factors that have no direct impact on reducing electricity costs.

E1 has misinterpreted the new strategic electrification provision and the *ERBA* as prioritizing sustainability and sustainable development globally. The Industrial Group suggests instead that the addition of strategic electrification in the way it has been drafted allows E1 to expand its programming to include items such as conversion of oil to heat-pumps within its programming, which was previously funded by the government rather than ratepayers. It grants this Board the authority to consider sustainability in assessing specific proposals brought before it, including programs which may or may not pass the "primary" cost-effectiveness test, but it does not shift the meaning of energy efficiency. Sustainability should only be considered in the context of E1's mandate of energy-based efficiency and cost-effectiveness.

Cost-effectiveness is the core purpose of E1's mandate. While Subsection 79A(b)(iv) may permit consideration of GHG emissions in DSM planning, the provision, when read harmoniously with its entire context and the scheme of the Act, does not grant environmental considerations priority over energy-based cost-effectiveness. Allowing E1 a broader scope to consider all environmental and societal impacts within a benefit cost test is incongruous with the mandate for franchise holders and would expand E1's role, and possibly even NSPI's testing.

Similarly, the *ERBA* requires the Board to consider other factors including how decisions support competition, innovation and economical energy supply. All of these may be appropriately considered by the Board in rendering a decision, but they do not expand E1's mandate under the *PUA*. The meaning of DSM may be interpreted through the lens of these factors, but the words in the *PUA* must still be given meaning. The Board should not ignore the repeated references to reducing costs for customers, and need for energy-based efficiency and conservation. Support for sustainability is merely one factor to consider, not the core driver of the Board's regulatory powers.

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[25] E-5, E1 (NSEB) RIR – 6(b).

Negative implications of Broad interpretation

When interpreting the *PUA,* this Board should recall Sullivan's third question: what are the consequences of adopting a proposed interpretation? Approving a broad ranging cost-effectiveness test may have a domino effect and will undermine the currently used cost-effectiveness testing employed by other utilities regulated under the *PUA*. The social cost of carbon, for example, impacts many utilities and industries. If it is found that the Board must take into consideration broad non-energy and societal impacts in its cost effectiveness testing because of the *ERBA,* it follows that these considerations will need to apply to other utilities and entities when the Board exercises its decision-making authority.

The potential consequence of adopting a broad societal test to account for the social cost of carbon is significant. Not only will this interpretation expand E1's mandate beyond that entrusted upon it by the legislature, but it steps into the realm of policymaking. In fact, the use of the social cost of carbon as relied on by E1, and its consultant, is derived from the federal government's guide on regulation making - not regulation of utility rate making.[26] The Government website reads: "The SC-GHG estimates include damages from a variety of climate change impacts, including, but not limited to, changes in net agricultural productivity, human health effects, property damage from increased flood risk, disruption of energy systems, and the value of ecosystem services."[27] It is estimated to be $275/tonne for 2025. The use of the social cost of carbon within that context is with respect to cost-benefit analyses in the introduction of a piece of legislation; it is not a tool that impacts costs charged to ratepayers.

Of particular concern is how far this expansive interpretation of s. 6(2) will need to be applied to ensure consistency within the Board's regulatory oversight. Section 6(2) of the *ERBA*, provides that "in approving or fixing rates, tolls, charges, tariffs, capital applications and all other matters over which the Energy Board has authority, the Board shall give appropriate consideration to the extent to which…" the decision supports and then goes on to list the factors, including, as relied on heavily by E1, sustainability and sustainable development. The Energy Board's mandates include all aspects of electricity (rates and tariffs, capital expenditures, cost of service, renewable to retail), IESO regulation (revenue requirements, cost recovery, IRP), gasoline and diesel pricing (establishing zones, wholesale and retail prices and mark-ups) and natural gas (distribution rates and tolls; the design, construction and operation of pipelines and gas plants; underground hydrocarbon storage facilities).

The Consultant for E1, EFG, has opined that the same, broad societal test should be applied across the board in relation to energy regulation. EFG's evidence, which has been endorsed by E1,[28] is that in evaluating costs and benefits of NSPI's capital projects it should also quantify and account for broad societal impacts and host customer impacts.[29] Mr. Neme testified:

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26 Transcript, Day Two, September 23, 2025, pages 512-513.

27 See:https://www.canada.ca/en/environment-climate-change/services/climate-change/science-research-data/social-cost-ghg.html ; as referenced as the source at E-1, Application, Appendix B, EFG Report, page 50, Footnote 34, pdf page 432.

28 Transcript, Day One, September 22, 2025, page 179.

29 E-6, E1 (SBA) RIR -20(d).

> *A. (Neme) And generally speaking, just conceptually, you know, from an economist perspective, it doesn't make sense to apply one perspective on cost effectiveness with the things that you consider and include when assessing cost effectiveness for some types of energy resources and not others.*

Taking this to its logical outcome, in order for this cost effectiveness test to "make sense", it would also need to be used by the IESO-NS in its development of the Integrated Resource Plan, and by NSPI in its capital planning. Incorporating the global social cost of carbon would fundamentally skew the outcomes of these processes, leading to absurd results. While cost-effectiveness testing for both NSPI and IESO-NS goes beyond the scope of this proceeding, it demonstrates the implications of such a broad-reaching interpretation of the *PUA*.

Moreover, if the authority to include a quantified social cost of carbon is derived from the Board's power to "give appropriate consideration to the extent to which… such matters support sustainable development and sustainable prosperity", then this authority must necessarily extend to all the Energy Board mandates and include the other enumerated factors such as competition. This would be particularly challenging when balancing two regulated energy suppliers – NSPI and Eastward Energy, other non-regulated competitive energy suppliers such as oil and propane heating suppliers, and a franchise-holder with a scope to provide programs both to reduce electricity and to strategically electrify.

The Industrial Group respectfully submits that the legislative amendments have not changed the law surrounding cost-effectiveness of DSM, or other resources, as suggested by E1. The Board should be cognizant of the unintended consequences that this interpretation of the *ERBA* could have on the overall regulation of public utilities in NS.

2. THE BOARD SHOULD NOT TAKE INTO CONSIDERATION NON-ENERGY AND BROAD SOCIETAL IMPACTS

In the alternative, if the Board determines it has the jurisdiction to incorporate non-energy and broad societal impacts into the cost-effectiveness testing for DSM, the Industrial Group submits that it should not do so. Not only could this result in unintended consequences, as outlined above, but the proposed non-energy impacts and broad societal impacts are not reasonable for the purposes of evaluating DSM.

The Industrial Group has introduced an exhibit which illustrates the differences between the main cost-effectiveness tests being discussed.[30] This Venn Diagram illustrates just how far the Proposed BCA will expand beyond a focus on cost impacts to ratepayers. As outlined: the **PAC** evaluates the utility's costs and benefits (utility includes both NSPI and E1); the host customer or Participant Cost test ("**PCT**") evaluates the specific costs and benefits to customers, and may include both non-energy and energy related impacts; the **TRC** includes considerations of both the PAC and the PCT, albeit the current TRC in Nova Scotia does not incorporate host customer non-energy benefits; and then the Proposed BCA would be considered a societal cost test, and incorporates all the factors in the TRC plus additional social costs of carbon.

E1 is attempting to add in broad, unquantifiable non-energy benefits, which are focused on customer feelings and the global impact of carbon within its testing. These are inappropriate

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[30] E-33 – Venn Diagram – IG Exhibit.

considerations for the purpose of guiding E1's energy efficiency and conservation programs and activities. Mr. Bowman and Ms. Whitten, consultant for the SBA, do not support broad societal non-utility non-energy benefits.[31] While Ms. Whitten offered her support of the compromise reached with E1, in cross-examination she re-confirmed that she does not support the inclusion of broad non-energy benefits and that she is conceptually aligned with the PAC test as the primary test to be used and supplemented through other testing.[32] She has confirmed that her "evidence does not support the use of broad societal non-utility and non-energy benefits as proposed by E1 in EFG to justify expenditures that are then recovered through customer bills."[33]

Host Customer Non-Energy Benefits

The proposed BCA test suggests that the Board should weigh a number of unquantifiable proposed benefits, including customer pride, empowerment, economic well-being, comfort, amenity, and health and safety. All of these have been accounted for by using a proxy value calculated as a percentage of energy benefit or measure costs, as suggested by EFG. These "benefits" and calculation of these benefits are vague, subjective and not sufficiently supported.

E1 provided clarity on the meaning of each of the proposed non-energy host customer impacts in response to an Information Request from the Board.[34] These proposed benefits include a value being considered for a customer "liking" a feature or a feeling of satisfaction. Many of these are subjective feelings, based on assumed "customer perception."[35]

The broad and subjective array of non-energy benefits proposed to be included in the host customer impacts cannot be squared with the definition of DSM in the *PUA*. There are no legislative provisions or signals that these proposed considerations should be included within the cost-effectiveness testing. The incorporation of reducing GHG emissions or sustainability in no way supports the inclusion of "pride" or "amenity", for example. These are subjective feelings and the Industrial Group respectfully submits that assigned proxy adders should not be used to balance out actual tangible costs to customers or the utility.

Board consultant Courtney Lane, of Synapse, although she endorsed the Proposed BCA, did raise some concerns with respect to potential arbitrariness of the proxy values used. She stated:

> *The use of proxy values is a reasonable approach to estimate host customer non-energy benefits (NEB) in cost-effectiveness analysis. However, E1 has not sufficiently justified its proposal for NEB proxy values. While proxies are often based on professional judgement, they should not be arbitrarily chosen and should be based on a review of literature, proxy values used by other jurisdictions, and should consider differences between jurisdictions.*[36]

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31 E-17, Ms. Whitten (IG) RIR- 1 (c).

32 Transcript, Day Two, September 23, 2025, pages 316-318.

33 Transcript, Day Two, September 23, 2025, pages 320-321.

34 E-5, E1 (NSEB) RIR-16.

35 Transcript, Day One, September 22, 2025, page 117.

36 E-9, Evidence of Courtney Lane, pages 3 - 4.

The reference to arbitrariness was based on the lack of workpapers, analysis and sources relied on by EFG in developing the proxy adders.[37]

The explanation provided for the revised proxy values agreed to by E1 within the Partial Consensus Agreement confirms that the proxy values used to assess these proposed benefits are not well substantiated. They appear arbitrary. E1 and three of the stakeholders have negotiated that amenity, empowerment and pride would "reflect an assumed quantification of zero".[38] Additionally, the proxy value adders have been amended with respect to some of the host customer impact measure category and customer segments [39] i.e., for Building Shell Measures, BNI Custom Measures, and Solar + Storage. When comparing the negotiated percentages to those in Table 14 of EFG's Report from E1's original application, it is evident that all measure categories related to amenity, empowerment, and pride remain unchanged—despite the negotiated nil value. [40] The reductions apply only to the other measure categories.

EFG's explanation for this at the hearing is unconvincing and only underscores the arbitrariness of the proxy values selected.[41] Mr. Hill confirmed that "assigning a value of zero would contribute to lowering the value," but that the ultimate amounts concluded would have been negotiated, and not a "re-quantification or adding up of the individual components" of the measure categories referenced.[42]

It is difficult, then, to understand the meaning behind Appendix A, clause c) of the Partial Consensus Agreement, as none of the noted proxy values which specifically reflect the non-energy benefits of amenity, pride and empowerment have been reduced. E1 has confirmed that the changed proxy adders are simply negotiated figures, and both E1 and EFG have been unable to point to new evidence that supports this change.[43] There has been no clear explanation for how the "assumed quantification of zero" has been reflected in the proposed proxy adders, since there has not been a re-quantification of the amounts.

In the grand scheme of the Proposed BCA, these considerations and proposed benefits for host customer non-energy benefits are relatively low figures. Conceptually, if costs are included, then benefits should be included as well; however, there should be some evidentiary foundation within Nova Scotia for a monetary value to be incorporated. Instead, EFG has relied exclusively on various American States to support these impacts and proxy adders.

EFG has maintained that the figures are "very conservative," but the evidence filed in this proceeding, including for Vermont, Colorado, and Nevada, show that the values used are

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[37] E-9, Evidence of Courtney Lane, page 26, lines 6-8.

[38] E-32, Partial Consensus Agreement, Appendix A, (c).

[39] E-32, Partial Consensus Agreement, Appendix A, (d).

[40] E-1, Appendix B, Table 14, pdf page 427.

[41] Transcript, Day One, September 22, 2025, page 118-120; and Transcript Day Two, September 23, 2025, page 203-206.

[42] Transcript, Day One, September 22, 2025, page 118-119.

[43] Transcript, Day One, September 22, 2025, page 126-127.

amongst the highest for the comparators.[44] Throughout the hearing, EFG repeatedly referred to the Skumatz Economic Research Associate report, from New Jersey,[45] to support a higher proxy value. As aptly pointed out by the Chair, however, there is a divergence between academia and regulators.[46] It is conservative from the perspective of the academic studies completed, but not from the regulated amounts. As confirmed by Mr. Neme: "[s]o regulators have been more conservative than necessarily taking on the full academic values that are proposed."[47]

It is also clear that within the National Energy Screening Project Summary of Host Customer Impacts, the vast majority of States do not account for these host customer impacts. Amongst the States that do, they do not account for the suite of suggested impacts, but instead often only refer to one or two.[48] The Proposed BCA appears to be one of the most expansive and broad-ranging tests as compared to the limited States that do account for these non-energy benefits.

While this approach may be used by some utilities in the US, E1 has been unable to point to any Canadian jurisdictions which have accepted this approach or that quantify or value such host customer impacts.

The Industrial Group submits that even if the Board is able to include non-energy host customer benefits into the cost-effectiveness testing for DSM, the proposed proxy adders and host customer feelings are not reasonable and do not have a sufficient evidentiary foundation to be included at this time. Whether they ought to be included later needs to be better evaluated and studied. These considerations should not be added first, then studied later.

Of course, E1 is not prevented from presenting these types of perceived benefits in future applications, but the Industrial Gorup disagrees that these considerations should be built into the primary cost effectiveness test with an assigned presumed positive value. As outlined by Board Member Murphy, and the Chair during questioning of E1 and EFG, if any non-energy benefits were to be included within the cost-effectiveness test employed by E1, corresponding performance indicators or targets should also be developed to monitor these "benefits".[49] While E1 has not outrightly rejected this concept, they have not agreed to undertake this for the purposes of the next DSM Plan.

Broad Societal Impacts

E1 also proposes to include broad societal impacts within its cost-effectiveness testing. This goes well beyond the approach taken by any other Canadian jurisdiction. The global cost of carbon - as a percentage of the overall benefits - significantly influences the outcome of a cost/benefit analysis.

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44 E-1, Appendix B, EFG Report, page 46, pdf p 428. See also, E-24, E1 Rebuttal Evidence, Appendix A, page 3.

45 This study was referenced within the evidence filed by Courtney Lane, and not in the report of EFG. See E-9, Evidence of Courtney Lane, at page 27.

46 Transcript Day Two, September 23, 2025, pages 289-291.

47 Transcript Day Two, September 23, 2025, page 291.

48 Transcript, Day One, September 22, 2025, pages 107-109.

49 Transcript Day Two, September 23, 2025, pages 224-236.

During the hearing, Mr. Hill at EFG explained this element of the test:

> *The social cost of carbon is meant to account for the environmental and economic damages on a global basis, and it has been adopted by the federal government and Canada and also in the U.S. at different times for reflecting the global environmental damages from carbon and greenhouse gas emissions.*[50]

EFG has confirmed that Nova Scotians are not taxed for a social cost of carbon, and in fact, the Federal Carbon Tax was recently eliminated effective April 1, 2025.[51] There has never actually been a tax imposed for the "social cost of carbon". The "benefit" proposed to be captured in the Proposed BCA for societal impacts are not reflected in energy prices.[52]

It is unreasonable to conclude that programming for E1 should be evaluated based on benefits that do not affect Nova Scotians. Since the government does not apply the proposed social cost of carbon to charge or assign value to residents in Nova Scotia, it would be inappropriate to use these calculations to assess the cost-effectiveness of energy efficiency programs developed by E1.

The legislation does not justify the use of an extremely broad societal cost benefit analysis test for DSM. The incorporation of broad societal impacts in no way furthers the specific mandate of E1 under the *PUA*: to reduce energy costs.

The Industrial Group does not support the incorporation of societal impacts into any cost-effectiveness test for DSM.

Inconsistency across DERs

The Industrial Group takes no issue with the use of the National Standard Practice Manual ("**NSPM**") for Distributed Energy Resources ("**DERs"**) as a guiding framework in formulating an appropriate cost-effectiveness test for DSM. It is flexible and provides broad suggestions on the development of cost-effectiveness testing. Mr. Bowman also takes no issue with its use.[53]

A concern, however, is the inconsistent application of its principles and particularly, the requirement of consistency and unbiased application of factors used. In order for E1's Proposed BCA to be applied "consistently", it would need to then expand to testing used by NSPI and IESO Nova Scotia. This has not been appropriately explored within the context of this application and undoubtedly will be met with resistance by both the NSPI and IESO. For example, in order for Nova Scotia to reach net zero carbon goals by 2030 and 2050, some non-green energy investments will need to be made.[54] The Evergreen IRP Action Plan Update from 2025, has

50 Transcript, Day One, September 22, 2025, pages 156-157.

51 Transcript, Day One, September 22, 2025, page 157-158.

52 Transcript, Day One, September 22, 2025, page 159.

53 Transcript, Day Two, September 23, 2025, page 400-401.

54 As outlined in the 2025 10 Year System Outlook report, "the use of emitting resources as peaking facilities (use during periods of peak system demand and/or when renewable resources are in low supply) plays a critical role in the integration of variable renewable generation (wind, solar) and to support system reliability" - M12386, N-1, Report, page 39, lines 7-10. That report goes one to outline the ways in which the Clean Electricity Regulations reflect this need.

confirmed the need for fast acting generation in the form of combustion turbines to balance intermittent renewables.[55] If the broad social cost of carbon is included in cost-effectiveness testing, approval of the projects may well be impacted.

The issue of lack of consistency further arises with respect to the proposed discount rate. The Industrial Group specifically disagrees with the use of the proposed 2% discount rate in the cost-effectiveness modeling. While E1 has stated in its application and response to the Industrial Group IR 14 (a)[56] that it was seeking a 2% discount rate to be approved by the Board, the testimony of Ms. Thompson confused the matter. Initially, when questioned by counsel for the Industrial Group, she confirmed E1 was not looking for approval of this rate. Then, when re-questioned by Board Member Murphy, she stated that E1 was.[57]

The rate proposed by E1 is a very low societal discount rate that is not used anywhere else in Canada nor is it used commonly in the United States. Instead of basing the discount rate on the amount that is charged to ratepayers by the utility, i.e. WACC, it is based on the amount embedded in the Government's calculation for the social cost of carbon and then applied across the board to all other impacts within the Proposed BCA. With respect, this is the tail wagging the dog and is neither appropriate nor justified. E1 and EFG have again relied on the policy objectives to ground this request, yet there is nothing within the legislation which would rationalize this societal rate. The Industrial Group relies on the evidence of Mr. Bowman regarding the inappropriateness of a 2% discount rate.[58]

ALTERNATIVE COST-EFFECTIVENESS TEST

If DERs are to be treated consistently, the proposed societal test should not be approved. The Proposed BCA is inconsistent with the current IRP, and NSPI capital asset treatment. The cost effectiveness testing used by E1, ought to be closely tied to that of NSPI, especially while acting as its franchise holder. The utility cost test, or PAC, is the more appropriate test to use.

Evidence of Patrick Bowman

The Industrial Group relies on the evidence filed by Mr. Bowman, and his oral evidence at the hearing, and specifically supports his recommendation to use the PAC as the primary cost-effectiveness test. This approach is consistent amongst Canadian utilities and furthers the goals of reducing electricity costs as specifically articulated throughout the PUA.

In all other jurisdictions in Canada the PAC is used as either the primary or secondary test with respect to DSM program testing.[59] Mr. Bowman has explained that by using the PAC as the primary test it would align E1 with most Canadian peer utilities and would address the Board's need to consider customer interests.[60]

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55 M12247, N-1, IRP Action Plan Update 2025.

56 E-4, E1 (IG) RIR – 14 (a).

57 Transcript, Day One, September 22, 2025, page 185; and Transcript, Day Two, September 23, 2025, page 238.

58 E-14, Evidence of P. Bowman, at page 16-17.

59 E-6, E1(SBA) RIR-19.

60 E-14, Evidence of P. Bowman, page 13, lines 17-19.

Mr. Bowman has been clear that he is not proposing a strict pass/fail application of the PAC, nor is he suggesting that the use of the PAC will necessarily lead to fewer DSM programs. His evidence confirms that "[t]he PAC should not be viewed as a less permissive test, which would rule out more DSM activities. Indeed, in the 2023-2025 DSM plan, the PAC results for most programs were more favourable than the TRC results."[61] The point is not that the PAC is likely to reduce the programming for E1, it is simply that the PAC grounds the testing in the specific costs charged to ratepayers.

Mr. Bowman is not recommending one single primary test at the portfolio level to the exclusion of others; he is recommending a primary test to be used complementarily with secondary testing. Using the PAC as a primary test does not preclude the consideration of other societal impacts or sustainability factors. Mr. Bowman has recommended that the Board continue to take various testing or impacts into consideration outside the primary test so that the Board may fully exercise its discretion over DSM.[62]

Secondary testing is important and is specifically referenced in the NPSM as a helpful part of cost-effectiveness testing for DERs. Secondary tests can help to: inform decisions on prioritizing programs; inform the impact on different parties; and inform decisions regarding marginally cost-effective programs. [63] The NSPM acknowledges that a primary test should not be run in a vacuum, and outlines that secondary tests may enhance a regulator's understanding of impacts and programming.[64]

The Industrial Group recognizes the value in having both primary and secondary testing for DSM cost-effectiveness analyses and suggests that the Board approve a primary test at this time and endorse the use of complementary testing within the upcoming DSM Plan application. The secondary test could be a modified Proposed BCA.[65] As confirmed by Mr. Bowman, it is additionally relevant to provide information on the PCT by measure, ", to indicate whether E1 has proposed a reasonable scale of incentives to achieve positive (but not excessive) beneficial outcomes for participants."[66] This suggestion is in keeping with a prior Board direction.[67]

What is particularly important, however, is that the primary testing be completed at the portfolio, program and measure levels, and when a level fails, justification or a reasonable explanation be provided by E1. Ms. Thompson has confirmed that the necessary justification to include non-cost-effective measures in a portfolio was a directive received from the Board and she confirmed that E1 is "required to provide justification of why we are including measures that are not cost effective using the primary cost test".[68]

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61 E-14, Evidence of P. Bowman, page 15, lines 14-16.

62 E-14, Evidence of P. Bowman, page 15.

63 E-1, Application, Appendix A, Attachment 2, pages 69-73, pdf p 148-152.

64 E-1, Application, Appendix A, Attachment 2, page 19, pdf p 98.

65 See Mr. Bowman's recommendations at E-14, Evidence of P. Bowman, page 20, lines 14-24.

66 E-14, Evidence of P. Bowman at page 18, lines 14-15.

67 See Efficiencyone (E1) (Re), 2022 NSUARB 137, at paras 140-141. Also acknowledged by E1 in E-24, Rebuttal Evidence, at page 10, lines 11-13.

68 Transcript, Day One, September 22, 2025, page 17, lines 9-12.

Nothing about the selection of the primary cost effectiveness test detracts from prior directions of the Board, including in relation to justification for measures that do not meet the requisite testing, or the inclusion of a variety of additional records or information provided within a DSM Plan application. The Industrial Group specifically references the Board's directions from the 2023-2025 DSM Plan proceeding, including:

> *(e)to provide specific justification, on an individual basis, for each measure that fails cost-effectiveness testing in future resource plan applications;*
>
> *(f) to include payback information in its measure level tables in future applications for the approval of resource plans and provide additional information about the other factors that E1 has considered in concluding that the proposed incentive level for the measure is appropriate for measures where the payback period is three years or less;*[69]

Where the *PUA* has clearly mandated the focus of DSM to be on the reduction of costs, the PAC is able to demonstrate that as a primary test; the Proposed BCA cannot. As confirmed by EFG, the outcome of a PAC will signal whether total electrical system costs will go down.[70] With respect to s. 79I of the *PUA*, which articulates that the DSM should be focused on reducing electricity costs for customers, the PAC would be the appropriate test to apply. This was even accepted by EFG.[71]

The PAC would examine the actual costs and benefits of the utility, also using WACC as the appropriate discount rate. It will provide a more accurate picture of the cost-effectiveness of DSM and signal the reduction of costs for customers. The PAC will fulfill the requirements of the legislation while avoiding the evident challenges posed by the new Proposed BCA, which is broad in nature and places greater emphasis on societal impacts than on ratepayer costs.

The Industrial Group supports the use of the PAC as the primary test, along with other secondary tests, or other appropriately considered societal factors that E1 views as important in evaluating the proposed DSM plan and programs. A specific example in which complementary testing is important is with respect to low-income programs, which Mr. Bowman has explained provide value and are necessary programs in which further justifications are required to warrant Board approval.[72] The PAC would not uniquely reject these types of programs, and that is in no way reflective of the recommendations of Mr. Bowman.

It is respectfully submitted that the PAC is the most appropriate cost-effective test to be used for the purposes of evaluating E1's programs and activities, pursuant to the *PUA*, and should be used alongside other factors and tests.

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69 Efficiencyone (E1) (Re), 2022 NSUARB 137, at para 193.

70 Transcript, Day Two, September 23, 2025, page 270-271.

71 Transcript, Day Two, September 23, 2025 page 272-273.

72 Transcript, Day Two, September 23, 2025, pages 412-414.

Modified PAC test for Electrification

The PAC need not be rigid or "ruthlessly applied".[73] It can be applied or modified as needed, like a jurisdictional test. As suggested by Mr. Bowman, this can be done with respect to strategic electrification.

Many utilities are also grappling with how to handle electrification. Mr. Bowman has proposed a reasonable solution, which is focused on costs charged to ratepayers. The PAC should be run, with an additional step of including the increased revenues to be received by NSPI with respect to the increased electrification.[74] The increased revenues will be included as a benefit. This will better assess the true costs to the system, and will ensure that strategic electrification programs, that are well conceived and structured, will pass the PAC testing.

Mr. Bowman has testified how his proposed approach to cost-effectiveness testing for E1, aligns with the recommendations as outlined by the consultant for Eastward Energy, Posterity Group. Posterity focused on the benefits of hybrid heating to reduce peak.[75] During Mr. Bowman's testimony, in looking at Table 5 of EFG's Report- the Illustrative Example given for heat pump electrification,[76] he explained how hybrid heating will also help with some of the issues suggested by E1 with respect to the PAC test:

> *… But what Prosperity is coming in and saying is, "No, wait. You can do a lot better because if you combine that heat pump with gas peaking, you will eliminate large numbers of those values at the top of the page. You won't need the transmission -- generation capacity, you won't need the transmission, and you won't need the distribution". And if you do all of that, that 26 million negative to the utility will be much lower. It will come out, as I did the math, about -- actually, Prosperity did the math in their -- but it will come out much lower. It's about half of that.*
>
> *And if you design it that way, you've now brought the utility costs down to 13 million. And if you consider the revenue they're going to get from selling that power, it's more than 13 million. So that would pass a PAC test and lower net cost to customers. It would pass 79I of the Act.*[77]

The PAC will ensure the focus of E1 will be on developing the most cost-effective programs, including hybrid heating to address the anticipated issues with load. Hybrid heating programs will help proposed electrification programs exceed 1.0 on a PAC test.

Mr. Bowman's alternative recommendation for cost-effectiveness testing is more in keeping with the goals of the *PUA*, and specifically E1's mandate. It is a simpler, more consistent and less biased approach to cost-effectiveness testing for DSM. The approach proposed does not preclude further considerations as outlined by E1 to be important, however it signals to E1 the number one

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[73] Transcript, Day Two, September 23, 2025, page 412.

[74] Transcript, Day Two, September 23, 2025, pages 433-435, and 443.

[75] E-12, Posterity Group Evidence, page 2.

[76] E-1, Application, Appendix B, EFG Report, Table 5, page 19, pdf p 401.

[77] Transcript, Day Two, September 23, 2025, pages 364-365.

goal of its mandate when developing programs and measures from the ground up: to reduce electricity costs for NSPI customers.

DSMAG CONSULTATION

While the purpose and role for the DSMAG is not currently an issue before the Board, the Industrial Group wishes to reiterate its concerns with respect to E1's overreliance on the DSMAG consultations within E1's and EFG's evidence, including references to discussions amongst the DSMAG members as implicit justification or support for the Proposed BCA or aspects thereof. The discussions of the DSMAG with respect to various aspects of the Proposed BCA should not, in any way, be equated to support of the group.

The DSMAG is a confidential advisory group, in which without prejudice discussions occur in relation to the programs and plans advanced by E1, and parties review the status of various spending or performance metrics. Decisions are ultimately E1's and E1 is free to accept or reject suggestions. Likewise, in this matter, the Proposed BCA is not a collective effort endorsed by the members of DSMAG. There has been no consensus, approval or endorsement by the DSMAG with respect to the Proposed BCA or the suggested non-energy benefits or proxy adders. The Industrial Group has specifically raised a variety of concerns with respect to the broad ranging non-energy benefits proposed and societal test more generally.

With respect to membership of the DSMAG, the Industrial Group has no objection to the addition of Eastward Energy, and E1 confirmed no one had communicated any objection, whether in specific relation to the proposed hybrid heating programs or otherwise. A wider array of perspectives is generally a welcomed addition.

CONCLUSION

The Industrial Group respectfully requests that the Board:

1. Direct E1 to use the PAC as its primary test for further DSM Plan applications, and a modified version of the PAC in relation to the strategic electrification programs, as proposed by Mr. Bowman;

2. Direct E1 to apply the primary test at the portfolio, program, and measure levels, and confirm its prior direction that where a particular program or measure does not pass the primary test, justification be provided by E1 with respect to that program or measure;

3. Confirm the use of both primary and secondary testing in relation to DSM Plan applications and the evaluation of cost-effectiveness for DSM programs and activities, and additional rate impacts, by class, be provided as an input to future Board decisions on DSM Plans;

4. In the alternative, if the Proposed BCA test is accepted by the Board, that the Board modify that test to exclude the broad ranging host customer non-energy benefits and corresponding proxy values; and

5. Reject E1's proposal to use a 2% social discount rate for all impact values incorporated into its cost-effectiveness testing.

Thank you for the opportunity to submit these comments.

Yours truly,

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cc Participants