STEWART McKELVEY
LAWYERS • AVOCATS

Queen's Marque, 600-1741 Lower Water Street, P.O. Box 997
Halifax NS B3J 2X2 Canada tel: 902.420.3200 fax: 902.420.1417 stewartmckelvey.com

File Reference: SM064773.00002

Nancy G. Rubin, K.C.
Direct Dial: 902.420.3337
nrubin@stewartmckelvey.com

June 19, 2025

Via Electronic 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: Tariffs Necessary for the Renewable to Retail Market

This letter is filed on behalf of Renewall Energy Inc. ("**REI**"), following discussion with Board counsel regarding a process to "fill the gap" in the Renewable to Retail ("**RtR**") tariffs. For reasons set out below, REI is seeking the Board's directions and requests an expedited process to either amend existing tariffs or to create a new tariff to enable distribution-connected generation and net billing.

The Issue – Licensed Retail Supplier Purchasing Generation at the Distribution Level

In 2013, the *Electricity Reform Act* was passed, which enabled the purchase and sale of renewable low-impact electricity generated in Nova Scotia from a "licensed retail supplier" ("**LRS**") to retail customers. The *Electricity Act*, SNS 2004, c 25 at s. 3G(1) mandated that NSPI develop and seek the Board's approval of tariffs and procedures "necessary to facilitate the purchase of renewable low-impact electricity."

> ***Nova Scotia Power Incorporated obligations***
>
> *3G (1) Notwithstanding Section 77 of the Public Utilities Act, on or before the applicable date prescribed by the regulations, Nova Scotia Power Incorporated, or the IESO in relation to matters falling under its scope of authority pursuant to the More Access to Energy Act, shall develop in consultation with stake-holders, and file with the Board for approval, any tariffs, procedures and standards of conduct and any amendments to existing tariffs, procedures and standards of conduct that are necessary to facilitate the purchase of renewable low-impact electricity as provided for in Section 3C, including*
>
> *a) a new or amended open access transmission tariff;*
> *b) a distribution tariff;*
> *c) a new or amended backup/top-up service tariff;*
> *d) a new or amended non-dispatchable supplier spill tariff;*
> *e) new or amended interconnection procedures;*
> *f) new or amended market rules; and*

4131-1569-2893 v3

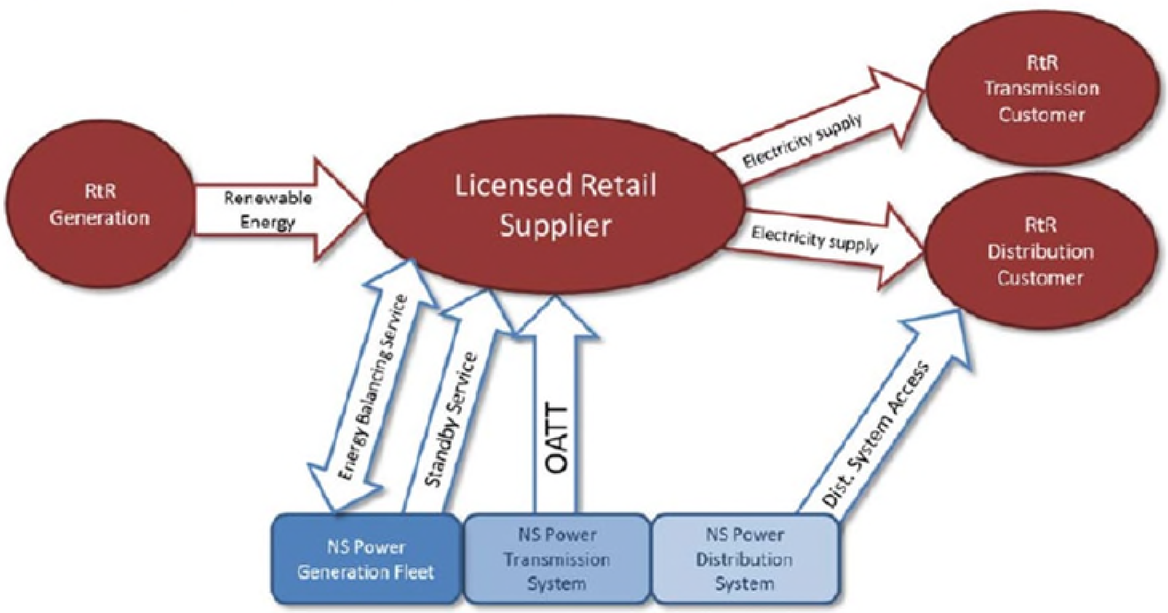
> *g) <u>any other tariffs, procedures </u>or standards of conduct prescribed by the regulations <u>or that the Board requires Nova Scotia Power Incorporated to develop or amend in order to facilitate the purchase of renewable low-impact electricity as provided for in Section 3C.</u>*

[emphasis added]

Following a consultative process, NSPI applied in September 2015 for approval of certain tariffs, as well as amendments to NSPI Regulations, and amendments to the Generator Interconnection Procedures. These were approved in the Board's decision, *Sale of Renewable Low-Impact Electricity (Re),* 2016 NSUARB 33[1] (M06214), along with a LRS Participation Agreement and LRS Terms and Conditions.

NSPI's original application in M06214, was premised on both transmission and distribution connected generators. Its evidence provided a graphical representation of the market and said this (p.41):

Figure 1: Disaggregated Market Design



OATT = Open Access Transmission Tariff
EBS = Energy Balancing Service
SS = Standby Service
Note: EBS & SS address: Top Up and Spill and provision of Back Up supply.

> ***Figure 1*** *above depicts the elements of the disaggregated RtR tariff approach. In this model, the LRS's electricity is supplied from certified renewable low-impact generators that are owned by the LRS, or a third-party independent generator. <u>In</u>*

---

1 https://canlii.ca/t/gnz9b

> *the diagram, the RtR Generation is shown connected to the NS Power transmission system;* ***it could also be connected to the NS Power distribution system****.*

And later at p. 43:

> *As described in* ***Section 6.3,*** ***for both transmission and distribution connected generators,*** *the full suite of RtR tariffs apply, including the OATT and the Renewable to Retail Market Transition Tariff.*

[emphasis added]

Notwithstanding this intention, since the Board's decision in M06214, NSPI has resisted distribution-connected generation in the RtR market, and it has become apparent to REI that there is a gap in the tariffs. Many of its intended distribution-connected customers have existing on-site solar generation. REI would like to receive any surplus generated energy and aggregate. This was generally discussed as "net billing" and approved by the Board as part of Schedules C and D in the Small Volume Customer matter (M10293, July 23, 2024 Order).

NSPI has taken the position with REI that the existing tariffs are only available to facilitate the sale of energy to RtR customers and not the purchase of surplus customer generation using NSPI's transmission or distribution facilities. Despite that NSPI participated in M10293, it never raised any impediment to net billing until such time as a request for interconnection was made. [2]

Apart from net billing, REI would also like to purchase contracted renewable energy from small renewable energy generators connected directly to the distribution system, rather than at the transmission level. This would not be surplus or net energy, but the full generation output, connected at the distribution level. However, NSPI maintains this is not permitted, stating, " *[T]his restriction would also apply to an LRS purchasing energy from renewable energy generators that are connected directly to the distribution system. The existing laws do not allow third-party energy delivery over the distribution system except in limited, legislatively defined cases (e.g. COMFIT)."*

In September 2024, REI wrote to the Board to address outstanding practical issues that had arisen in launching the RtR Market. The Board appointed Brady Ryall, Energy Consultants International Inc. ("**ECI**") to prepare a report to address certain regulatory issues under the *Board Electricity Retailers Regulations, (Nova Scotia)* NS Reg. 246/2016 ("*BERR*") (Matter M12014). Purchasing generation at the distribution level was the first issue of REI and it was noted as a "priority issue".

Unfortunately, the ECI report in Matter M12014 was silent on this issue and did not directly address it (albeit ECI appeared to be under the belief that distribution-connection generation was permitted, explicitly noting that an LRS may have a mix of transmission and distribution-connected generation and customers. The Report further noted that the calculation of losses will depend

---

[2] Email from NSPI to Roswell responding to two interconnection requests to establish generation via Net Billing program: "*Use of the distribution system for transporting power from non-utility generation is limited to elements specifically authorized, or enabled, by legislation. NSPSO is not aware of similar legislation that would support the use of the distribution system to deliver distribution-connected generation in the RtR Market."*

on, among other things whether the LRS' supply … is connected at the distribution or transmission level, as an LRS may have a mix.[3])

NSPI has failed to meaningfully advance the discussions with REI and has not assisted in finding a solution.

The Board's Jurisdiction

REI is requesting that the Board exercise its discretion under s. 3G(1) of the *Electricity Act* to require that NSPI amend or create a new tariff that is necessary to develop the RtR Market in Nova Scotia. Specifically, REI seeks a tariff to address the need for net meter billing for RtR customers, the aggregation of self-generated excess electricity by an LRS on the distribution level (and/or the transmission level), and the ability for a LRS to purchase energy from small distribution-connected generators.

Alternatively, REI makes this request pursuant to the Board's jurisdiction under the *Public Utilities Act,* RSNS 1989, c 380 at s. 83(1) to entertain a complaint and launch an investigation that the Distribution Tariff ("**DT**") and Energy Balancing Service Tariff ("**EBS**") are "unreasonable or unjustly discriminatory", or that "service is unobtainable" and that the current regulation of the RtR Market does not address the issue of spilled excess electricity onto the distribution lines nor enable small distribution generation, which is "affecting or relating to the operation" of NSPI's distribution system and tariffs in an "unreasonable, insufficient or unjustly discriminatory" manner.

Reference is also made to the *Energy and Regulatory Boards Act*, SNS 2024, c. 2, Sch.A, S. 6(2) which directs the Board, in approving or fixing tariffs (among other things), to give consideration to the extent which they (a) support competition and innovation in the provision of energy resources in the Province; and (b) support the development of a competitive electricity market.

The Board's jurisdiction is engaged to ensure the requisite tariffs are in place for a fair and competitive RtR Market in Nova Scotia. It is respectfully requested that the Board initiate an expedited process to either create a new tariff or amend the existing tariffs under its direction. If the Board requires any points of clarification or further information or submissions from REI before determining if it will establish such a process, please advise. Otherwise, REI awaits the Board's direction and is anxious to address this gap.

Yours truly,

Nancy G. Rubin

NGR/BER/cj

cc. Bill Mahody, K.C.
Jennifer Power, NSPI

---

[3] M12014, ECI Updated Report, February 24, 2025, page 16, second bullet.