Nova Scotia POWER
An Emera Company

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July 23, 2025

Crystal Henwood
Clerk of the Board
Nova Scotia Energy Board
1601 Lower Water Street, 3rd Floor
Halifax, NS B3J 3S3

Re: M12339 – Renewall Energy Inc Request for Tariffs for the Renewable to Retail Market

Dear Ms. Henwood:

On June 19, 2025, counsel for Renewall Energy Inc. (Renewall) wrote to the Nova Scotia Energy Board (NSEB, Board) requesting an expedited process to amend existing tariffs or to create a new tariff to enable distribution-connected generation and net billing for the Renewable to Retail (RtR) market. The request is made pursuant to section 3G(1) of the *Electricity Act* or alternatively pursuant to section 83(1) of the *Public Utilities Act.*

The NSEB wrote to Nova Scotia Power Inc. (NS Power, Company) on July 9, 2025 advising that it would establish a process and timeline for the tariff request but wanted a response to the issues raised by Renewall from NS Power before doing so. The NSEB directed NS Power to file a response by July 23, 2025. This correspondence is NS Power's response.

Up front, NS Power views this issue as concerning the legislative framework governing the RtR market in Nova Scotia. This issue is not governed by tariffs. Thus, stakeholder consultation is better considered once the Board's perspective on the legislative framework has been provided.

NS Power and Renewall have collaborated on a regular basis for many months and have a documented history of exchanging information and analysis on this specific issue since 2023. NS Power has been clear in its position and interpretation of the relevant statutes since early 2024 and NS Power formalized its position on this topic among others to Renewall in a letter dated June 24, 2024 (attached as Appendix A). Renewall's decision to not act on this issue for a year was its decision and was made despite NS Power's urging of Renewall to bring the issue forward to have the legislative concerns addressed. The position that "NSPI has failed to meaningfully advance the discussions with REI and has not assisted in finding a solution" is inaccurate, misleading, and undermines the ongoing work and collaboration that has taken place between Renewall and NS Power. It also mischaracterizes NS Power's obligations under section 3G of the *Electricity Act*. The required work under section 3G is not open-ended. It does not suggest that NS Power has an ongoing duty to facilitate any and all aspects of Renewall's business plans. Notwithstanding this fact, NS Power's position is that it has actively and consistently engaged with each issue presented by Renewall and has and continues to deliver on its legislative obligations.

Returning to the initial point, currently, only generators that fall under Section 3AA of the *Electricity Act*, "Customer may generate and sell electricity," or generators participating in a NS Power program (legacy Net Metering under Regulation 3.6 and Commercial Net Metering under Section 3A of the *Electricity Act*) can connect and export to the grid. Section 3AA explicitly directs NS Power to be the buyer of excess generation:

> (3) Subject to subsection (4), Nova Scotia Power Incorporated shall purchase excess electricity from a customer who has installed a renewable low-impact generator or energy storage device with a nameplate capacity of twentyseven kilowatts or less to generate electricity for the customer's own use.
>
> (4) Nova Scotia Power Incorporated shall purchase electricity under subsection (3) up to a maximum of the customer's total usage per calendar year at a rate equivalent to the rate paid by the customer, but is not required to compensate a customer for electricity generated by the customer in excess of the customer's total consumption in a calendar year.

Section 3A states:

> Program for customer to generate electricity
> 3A (1) In this Section, "customer" means all metered accounts registered to the same person or entity under the same rate code in a distribution zone.
>
> (2) A public utility may develop and maintain a program that permits any customer to generate electricity for the customer's own use and to sell any excess electricity to the public utility at a rate equivalent to the rate paid by the customer for electricity supplied to the customer by the public utility

There is no authority granted here for third-party purchasers or the ability to direct sales to other customers. Unless there are amendments to the *Electricity* Act or regulations to provide for retail arrangements, these clauses do not open the door for others to purchase that energy. The sale relationship is strictly between the customer-generator and NS

Power. As stated in NS Power's Reply Evidence under M06214, filed January 8, 2016, "net metering arrangements under s. 3A of the *Electricity Act* would not have any bearing on RtR service as the net metering provisions of section 3A apply only to a customer generating electricity for its own consumption".

Taken altogether, net metering/billing is not available in the RtR Market under the current legislative and regulatory framework.

Yours truly,

J. Power

Jennifer Power
Senior Regulatory Counsel

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June 24, 2024

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Daniel Roscoe, P.Eng.
President
Renewall Energy Inc.
1625 Grafton Street, Suite 1500
Halifax, NS B3J 0E8

Re: Summary of Outstanding Issues, Status, and Next Steps

Dear Mr. Roscoe:

We are writing to discuss what Nova Scotia Power Incorporated (NS Power, the Company) considers as unresolved matters regarding the development of the Renewable to Retail (RtR) market in Nova Scotia. We believe it's crucial to address these outstanding issues collaboratively and to outline the next steps in moving forward.

NS Power is fully aware of its responsibilities mandated by legislation to develop, in collaboration with stakeholders and submit to the Nova Scotia Utility and Review Board (NSUARB, Board),for approval, any necessary tariffs, procedures, and standards of conduct pertaining to the acquisition of renewable energy. In meeting these obligations, NS Power must effectively manage the delicate equilibrium between facilitating the growth of this emerging market and safeguarding the financial interests of its bundled service customers. The task of striking this balance is progressively becoming more complex, particularly as we encounter detailed operational and commercial requests from Renewall Energy Inc. (Renewall), necessitating substantial investments in capital and human resources. Additionally, Renewall has approached NS Power with challenges that could further complicate this endeavor. Specifically, these challenges relate to how NS Power and Renewall will share the costs and risks associated with this effort. These costs are intended to be recovered from the Licensed Retail Supplier (LRS), with Renewall currently being the sole LRS in Nova Scotia involved in establishing this new market.

In that spirit, this letter is intended to summarize the currently outstanding issues, the status of NS Power's assessment and analysis, and what we need from Renewall to reach a resolution on the following matters:

1. **Renewall's Application for Maximum Spill Capacity;**
2. **Fuel Adjustment Mechanism (FAM) repayments for customers joining the RtR Market;**
3. **Large Industrial Interruptible Rider (LIIR) customers;**

4. **Licensed Retail Supplier (LRS) Behind-the-Meter (BTM) generation and LRS Net Billing customers; and**
5. **Estimated costs.**

Each will be addressed in turn. This list is non-exhaustive and will be continually updated to reflect the ongoing work of NS Power and Renewall, including further analysis on the force majeure provisions of Renewall's Small Volume Contract terms and conditions.

1. **<u>Maximum Spill Capacity</u>**

Background

In May of 2023, NS Power and Renewall met to discuss the Energy Balancing Service (EBS) and Maximum Spill Capacity. NS Power directed Renewall to section 5 of the EBS, which states:

> (5) Maximum Spill Capacity must be approved by NS Power prior to commencement of service and will be limited to a level agreed as being required to provide the contracted annual amount of participating LRS energy. Spill capacity will be reviewed annually and will include the LRS' proposal to mitigate it on a going forward basis. If NS Power is not satisfied with the LRS' proposal, it may impose a limit on hourly production of the LRS's generation portfolio.

Renewall was asked to provide details about the renewable generation including capacity and expected annual production in its request.

In June of 2023, Renewall provided its Maximum Spill Capacity Proposal in which it proposed targeting an annual over-spill of 10% and a maximum annual over-spill target of 20%. Renewall proposed identifying a discounted rate for any over-spill volume above 20%, to be based on retail sale volume.

On July 28, 2023, NS Power communicated the results of its review of Renewall's Maximum Spill Capacity proposal stating that the existing tariffs are clear that the LRS should endeavour **<u>to balance Spill and Top-up</u>**. Where this is not achieved, per the Energy Balancing Service Tariff approved by the Board, NS Power will review this with the LRS and determine the appropriate response for the next period. The LRS, like any other customer, has recourse to the NSUARB if it is dissatisfied with NS Power's position. NS Power noted that considering this information, it was premature to introduce changes to the regulations, tariffs, and standards of conduct and committed to its continued support for the development of the RtR market.

On December 11, 2023, NS Power provided Renewall with the Maximum Spill Capacity Definition for Renewable to Retail Services highlighting that, under the Wholesale Market Non-Dispatchable Supplier Spill Tariff and the Energy Balancing Service Tariff, Maximum Spill Capacity must be approved by NS Power prior to commencement of service and **will be limited to a level agreed as being required to provide the contracted annual amount of participating LRS energy**. Spill capacity will be reviewed annually and will include the LRS' proposal to mitigate it on a going forward basis. If NS Power is not satisfied with the LRS' proposal, it may impose a limit on hourly production of the LRS' generation portfolio.

On February 1, 2024, Renewall provided its Application for Approval of Maximum Spill Capacity to NS Power. On March 12, 2024, Renewall provided NS Power with its accompanying forecast submission.

On April 19, 2024, NS Power responded to Renewall with the findings of NS Power's System Operator's (NSPSO) analysis. The following anomalies were identified and were required to be addressed:

	Mersey River Wind Farm			Energy Requirement Rate Class net of Transmission Losses								Variance (Spill in Red)	
Year	Ave Installed Capacity (MWs)	Capacity Factor	Total Generation net of transmission losses (GWh)	Domestic	Small General	General	Large General	Small Industrial	Medium Industrial	Large Industrial	Total	MWh	Ratio of Supply to Demand (MSC threshold)
2025[1]	63.0	36%	64,849	19,357	1,474	23,419	2,560	1,071	10,389	5,112	63,381	(1,468)	102%
2026	105.8	38%	340,131	80,606	7,160	101,623	8,295	4,016	40,736	17,064	259,500	(80,631)	131%
2027	148.5	27%	340,131	80,001	7,096	100,409	8,202	3,988	40,250	16,874	256,820	(83,310)	132%

Notes
1) Based on 4 month data from Sep to Dec, 2025

- Per the table above, for 2026 and 2027, it appears that Renewall is forecasting to deliver excess energy to the system, significantly beyond what the LRS requires to meet its forecast customer load. This is inconsistent with the EBS Tariff construct. The purpose of this provision is to confirm that, on an annual basis, LRS forecast generation supply is aligned with LRS forecast load and that the LRS is not inappropriately relying on top-up energy from NS Power to serve the LRS' customers or providing excess spill energy to the NS Power system.

- The 2027 generation forecast of 340,131 MWh is the same as that for 2026, even though the installed capacity goes up by 40% (i.e. from 105.8 MW to 148.5 MW) with a corresponding deterioration in the capacity factor, which drops from 38% to 27%.

- Referring to the load forecast provided by Renewall, the average annual MWh usage of a Small General (SG) class customer is forecasted to be 98.2 MWh, which is more than twice the allowable upper threshold of 45 MWh under the SG Tariff and close to ten times the average usage of the SG rate class customers served by NS Power.

On May 22, 2024, Renewall provided an updated forecast. Though there were marked improvements, the issues with the updated forecast remain, as follows:

- The forecast energy spill is 25% in 2025, and 11% in 2026 and 2027.
- Renewall reduced its energy spill by increasing its average customer kWh usage from the residential, general, small industrial, and medium industrial mass market rate classes.
    - Some of these customers have projected kWh usage that exceeds NS Power's average kWh customer usage, in each of these respective classes, by a significant margin.

- 2025, which is a partial consumption year, shows a significant surplus (45%) in energy spill indicating that Renewall may intend to spill excess energy onto the system before customers are signed on to consume it.

On May 28, 2024, Renewall wrote to NS Power indicating that it has, “allowed for a wider band during the initial roll out, we are solving for a 10% net spill long term,” due to the variability of wind generation - the inference being that NS Power should agree to a spill percentage that does not accord with existing tariffs to help mitigate Renewall’s business risk and variability in its energy supply.

Summary of Outstanding Issues

NS Power has been consistent in its messaging and approach to interpreting the EBS Tariff. Conversely, Renewall has been consistent in its suggestion that the expectation that supply and demand be equal is “imprudent”. NS Power does not agree that requiring compliance with the EBS Tariff construct is imprudent for either party.

To achieve this matching objective the LRS must balance the amounts of spilled and topped-up energy on an annual basis. Introducing a 120% threshold for Maximum Spill Capacity is an unnecessary complication that forces NS Power to mitigate the LRS’s risk of falling short of meeting a potential surge in its customer load. Forcing NS Power to mitigate or assume the LRS’s risk stands in contrast to the guiding principles prescribed in section 3G(2) of the *Electricity Act* (EA). Section 3G(2) ensures that NS Power’s customers are not at risk of being negatively affected by the introduction of the RtR market.

Renewall’s Maximum Spill Capacity Application contains a forecast that is unsupported by the top-up and spill reciprocity requirements of the EBS Tariff and Wholesale Market Non-Dispatchable Supplier Spill Tariff.

Renewall has not indicated how its Maximum Spill Capacity proposal and forecast accords with the EBS construct nor has it made further submissions on proposals to amend the EBS within an appropriate process (post-Annual Adjusted Rates (AAR) proceeding), or other relevant tariffs to support its forecast that solves for a 10% net spill. Behind the Meter (BTM) metrics should not be assumed as part of Renewall’s Maximum Spill Capacity proposal - .BTM is addressed further below as issue number four.

While NS Power appreciates that Renewall is seeking a Maximum Spill Capacity that reduces its own risk and meets its business case, NS Power has no supportable grounds to migrate from the terms of clause 5 of the EBS Tariff.

Regarding any perceived delay in addressing this issue, the EBS Tariff reads clearly and has always been available to Renewall. If Renewall projected a departure from an interpretation of the EBS Tariff (which specifically requires alignment between supply and load), it was free to advance that position at any time. The EBS Tariff was designed and approved specifically for all participants in the RtR market.

Next Steps

As Renewall knows, Maximum Spill Capacity must be approved by NS Power prior to commencement of service and <u>will be limited to a level agreed as being required to provide the contracted annual amount of participating wholesale customer energy (MWh)</u>. Accordingly, NS Power requires that Renewall adjust its supply and demand plan to ensure alignment between generation supply and the forecasted load of the LRS. This should encompass addressing all the aforementioned concerns in conjunction with the latest updated forecast provided. Please resubmit your revised materials to NS Power's Senior Compliance Engineer, Natasha Flynn.

NS Power is unwilling to entertain further submissions that do not meet the requirements of the EBS Tariff as outlined above.

2. <u>FAM Repayments for Customers joining the RtR Market</u>

Background

NS Power's internal working group has been assessing the impact of NS Power customers migrating to the LRS on FAM recovery. On January 22, 2024, NS Power briefed Renewall on issues regarding the FAM.

In short, NS Power is guided by the following principles:

a. Costs cannot be transferred to FAM customers as a result of establishment of the RtR Market;
b. Terms must allow for timely recovery of Fuel costs;
c. Terms must be simple for customers;
d. Terms should achieve simplicity in administration for both the LRS and NS Power; and
e. Parties should make use of existing regulatory processes where possible.

In further bi-weekly meetings, NS Power expressed concerns with how the FAM is to be treated and identified the associated complexities and challenges that NS Power faces in determining the appropriate quantification of the imbalance created.

Summary of Outstanding Issues

NS Power has been clear that the treatment and recovery of the FAM is critical to ensuring that NS Power customers are not negatively affected if some customers choose to purchase renewable energy in the RtR market.

Under section 3.1 of the FAM Plan of Administration, when a customer transitions its load, whether in whole or in part, from a FAM class to a non-FAM class, NS Power shall determine the outstanding fuel cost imbalance of the customer at the time of transition. The determined imbalance will be adjusted as necessary in future FAM proceedings concerned with apportionment of fuel costs incurred in the period in question. The adjustments will be subject to NSUARB approval. The outstanding imbalance and subsequent adjustments will be paid (or reimbursed) in full, and on reasonable terms acceptable to the customer and NS Power, or if the parties are unable to agree, as determined by the NSUARB. Where payment is made over time, the transitioning customer shall pay, in addition, any carrying costs such that remaining customers and NS Power are kept whole.

There has been discussion regarding options to recover the fuel cost imbalance at the time of transition. NS Power is currently assessing the value of the following:

1) Utilizing a methodology based on historical usage to calculate the balance of a transitioning customer;
2) Billing the FAM cost imbalance to the LRS customer under the Distribution Tariff; and
3) Seeking full recovery from the LRS in one year outlining process, payment terms, evidenced in a formal agreement.

NS Power is open to discussing a solution wherein NS Power provides the LRS with an annual summary of customers that have migrated to the LRS with a calculation of the outstanding balance based on the set of given principles outlined above. The calculation might consider a September 30th date to align with the AA/BA process that is annually before the Board. The LRS would then pay NS Power in lump sum and would determine its own terms for collection from its customers. This solution may require amendments to the Small Volume Power Purchase Agreement.

Next Steps

NS Power requests a written proposal from Renewall regarding the process and terms by which it, or its customers, will repay the FAM imbalance caused by migrating customers.

NS Power will consider the available methodologies for determining the costs associated with potential dates of transition on a per customer basis. As per the AAR proceeding, NS Power is considering potential amendments to the POA that may be required to accommodate the RtR market.

3. Large Industrial Interruptible Rider (LIIR) Customers

Background

The Board Decision in which it approved the Company's RtR Tariff application did not address the issue of interruptible service in the RtR Market.

NS Power's application for the approval of RtR tariffs in Matter number M06214 at paragraph 6.5 indicated that transfer of this service offering to the RtR market would face the following challenges:

- It would require revision to the interruptible provision of LIIR rider or development of an RtR version of this tariff.

- In order not to undermine the value of this service and the Northeast Power Coordinating Council's (NPCC's) confidence of the efficacy of this load as a generation alternative, it would likely require that a penalty for failing to comply with the approved interruption terms be applied to the LRS.
  - This would, in turn, increase the value of the security which the Company would be required to obtain from the LRS.
- Implementation of reliable customer advisory and interruption request procedures and processes in consideration of the fact that an RtR customer's electricity supply, and billing, is from the LRS and not NS Power.
- The need for an appropriate value exchange, in terms of the interruptibility of the load, amongst NS Power, the RtR customer, and the LRS.
- Any alternative will need to be vetted by the NPCC to ensure the regional reliability coordinator is accepting of the underlying resource as a firm generation proxy.
- Interruptible RtR load would not easily lend itself to the migration to/from utility service applicable to firm customer load, demonstrated by the requirement in the LIIR for a five-year advance notice by the customer to switch to firm service from interruptible service.

In July of 2023, NS Power began considering the Board directive of June 7, 2023 to explore ways in which interruptible customers may take service under the RtR market. Initial considerations suggested that it would need to include performance commitments and commercial terms comparable to provisions included in the existing Interruptible Rider to the Large Industrial Tariff. On July 28, 2023, NS Power sought Renewall's thoughts on how interruptible service would work, what tariffs may require updates, and any other mechanisms requiring adjustments. On that same day, Renewall responded indicating that it would review and respond with a more detailed list of suggestions but agreed that similar conditions and arrangements would be required.

On February 1, 2024, Renewall followed up regarding interruptible service. Renewall indicated its general agreement that the performance and contractual obligations and commercial terms should be similar to what currently exists and stated:

> *"…Regarding performance obligations, we understand that there is an interruptible customer agreement between Nova Scotia Power and its bundled customers. We would expect that an LRS would be added as a third-party to that agreement, and that the technical engagement and 10 minute phone call warning system (and newer telemetry systems) currently in place would remain between Nova Scotia Power and the customer. Renewall would want to be party to the agreement and receive copy of various notifications associated with the interruptible service.*
>
> *Regarding the commercial terms, we would expect a similar discount would be offered for providing the capacity associated with the interruptible customer. Rather than amend the various demand related renewable to retail tariffs, we feel that it would be simpler to provide the same credit to an LRS that is providing service to interruptible customers that would be provided to the customer if it was Nova Scotia Power's customer directly. Renewall's customers would expect that discount to flow through to them, of course."*

Summary of Outstanding Issues

To date, the challenges identified above have not been adequately addressed.

NS Power is not stating that a customer could not take interruptible service in the RtR market; however, the Company needs to understand how Renewall intends to enforce or address a subsequent penalty for failure to comply. Moreover, and importantly, Renewall must consider how to price its potential interruptible service accordingly to ensure that NS Power's customers are not negatively affected.

Next Steps

Addressing the challenges above will be necessary to permit an interruptible customer to migrate to RtR supply and remain as an interruptible customer. NS Power cannot progress further absent Renewall's confirmation that it understands the complexities and costs associated with providing interruptible service, and provides its position on the terms of offering interruptible service, including restrictions on interruptible customers returning to firm service, how the LRS will manage compliance, how the LRS will confirm that the customer knows how/when to interrupt and administer any relevant penalty for failure to perform under the terms of the customer contract with the LRS regarding interruptions. Further, NS Power requires the LRS' commitment to pay any associated penalties.

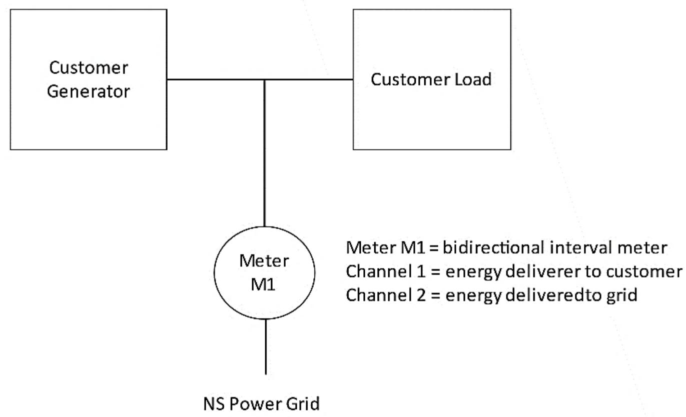
Given the limited number of interruptible customers, the uncertainty as to the extent and timing of migration to RtR service by these customers and whether the LRS' would be inclined to support interruptible service to its customers, NS Power recommends that requests for transition of an existing interruptible customer to interruptible RtR service be assessed and resolved on a case-by case basis. There may be an opportunity to advance a pilot project with one customer. This option is contingent on reaching some consensus on the LRS's proposed form of service.

4. **LRS Behind the Meter Generation and LRS Net Billing Customers**

Background

On December 19, 2023, NS Power wrote to Renewall seeking to understand how Renewall envisions its Net Billing program working in the RtR Market. NS Power provided two scenarios with questions. Scenario #1 – Net Billing Customer <101 kW, as provided by NS Power and as referenced in the responses from Renewall (below) was as follows:

RTR Scenario #1



On February 6, 2024, Renewall provided responses (in red text) to the questions NS Power posed (in black text), only to Scenario #1 (provided above), as follows:

1. This is the typical metering arrangement for an NS Power Net Metered customer.
    a. Is this the arrangement that Renewall envisions for its Net Billing offering? - YES
2. In some hours, the Customer Generation may exceed Customer Load resulting in energy delivered to the grid and recorded in Channel 2 of the interval meter.
    a. Does Renewall consider this to be a generation source to be aggregated with all Renewall's other generation sources for the purpose of RtR tariff aggregations and calculations? YES
3. If yes, will Renewall include this source in the request to establish its Maximum Spill Capacity under the Energy Balancing Service tariff? The Energy Balancing Service concerns aggregate top up and spill on the Transmission System. Very little, if any, behind the meter distribution connected behind the meter generation will find its way to the Transmission System. This amount, if any, would be determined in the interconnection process for that generation asset. If BTM generation will spill onto the Transmission system, then yes, we would account for it in the MSC.
4. If yes, will Renewall provide a capacity rating and resource type for this source such that it will be included in the analysis of the Effective Load Carrying Capacity for a potential capacity credit under the Standby Service Tariff? Yes, we would be able to provide modelling for this resource to estimate a capacity rating and acknowledge that it will have a different profile than generation that is directly connected to the grid. For clarity, the answer to this question is yes for all generation, whether or not it backfeeds to the transmission system.

On April 22, 2024, the NSPSO responded to Renewall as follows:

> The Nova Scotia Power System Operator (NSPSO) has assessed the permissibility of Renewall's proposed Net Billing Program and Behind-the-Meter distribution-connected generation in the Renewable to Retail (RtR) Market and has concluded that neither can be supported within the current legislative and regulatory regimes governing use of the NS Power distribution system for generation interconnection. 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.
>
> Existing legislation and regulations provide for the use of the distribution system by non-NS Power entities in certain circumstances. While these allowable uses include the use of the NSUARB-approved Distribution Tariff to deliver energy to RtR customers, they do not include the express ability for the use of this tariff for the sale of surplus customer self-generated energy to a Licensed Retail Supplier in the RtR Market.
>
> NSPSO welcomes Renewall's comments on the foregoing. NSPSO will continue to work with Renewall to support the development of the RtR market in Nova Scotia, within the parameters established by the enabling legislation and applicable tariffs as approved by the NSUARB.

On June 5, 2024, Renewall provided its response, as follows:

> First, we do agree, as you stated, that the Distribution Tariff does not include the express ability to use this tariff for the *sale* of surplus customer self-generated energy to a LRS.
>
> However, we are relying on the construct of the Energy Balancing Service (EBS) as authority for Renewall's program. It was recognized from market opening and the approval of the tariffs, procedures and standards regarding the RtR market that generators could be either transmission-connected or distribution-connected. (See, for example pages 41 and 43 of NSPI's evidence filed in *Sale of Renewable Low-Impact Electricity (Re)*, 2016 NSUARB 33 (CanLII), <https://canlii.ca/t/gnz9b> and the Board's discussion regarding the effect of generator location on line losses and directing the use of location losses by zone.) Of course, a LRS could be a generator itself, or could purchase contracted generation from any qualifying renewable low-impact electricity generators to supply its customers and such generators could be connected at the transmission or distribution level. Distribution-connected generation and the EBS hourly top-up and spill was modeled during the consultation process leading up to approval of the tariffs and it was never suggested that the EBS was limited to transmission-connected generation.

NSPI provides supplemental generation service to a LRS to balance out its relationship with its customers and generators by delivering and receiving energy. As per the EBS, NSPI's service consists of delivery of complementary energy to RtR customers and "reception of surplus generation" from qualifying renewable low-impact generators. While the hourly net quantities under EBS for the LRS's aggregate customer load are determined at the delivery point from the transmission system, it is explicitly to account for spilled energy from the LRS or its contracted generation –which could be either transmission or distribution connected.

The EBS already exists for the reception of spilled energy from a generator, wheresoever located. Similar to the amount of top-up which will be for a multiplicity of different customer classes, the generation may come from different classes of generation at different locations. We look forward to working with NS Power to ensure distribution connected generation is calculated within the EBS tariff.

We did note the reference in the EBS tariff to "qualifying generators" and take this to be a shorthand to the preceding reference of "renewable low-impact generators" (or more specifically, a generation facility that has been issued an electricity standard approval under the *Renewable Electricity Regulations*, NS Reg 155/2010, s.14. Assuming the BTM generator qualifies, and there is approval of the Maximum Spill Capacity under the Applicability provisions, then it appears that the EBS tariff can accommodate distribution-connected generation and net billing.

Additionally, the NSPSO accepted Oberland Argiscience's (IR676) GIA that stated that Renewall (formally 4363174 Nova Scotia Limited) would be the purchaser of their generation and that Oberland would also be a retail customer of Renewall, establishing Oberland Argiscience as a net billing customer of Renewall. NSPSO executed the SSGIA for this project, and conducted the DSIS under these conditions, which confirms the offtake agreement between Oblerand and Renewall met the conditions of section 7.2.vii of the Distribution Generator Interconnection Procedures. At no point during this process was it flagged that it would not be feasible.

There are two additional Interconnection Requests in process now, IR763 and IR766. NSPSO has already set the precedent with IR676 that Renewall can be the purchaser and supplier of energy to this type of project. We request that the original queue positions of these two applications be maintained, and for the ability to move forward with the DSIS for each project (during the next available study window) under the structure of Renewall purchasing surplus generation from these behind the meter qualifying generators.

Renewall should not assume that a BTM generator qualifies as a "qualifying generator" that can interconnect and export to the grid. Currently, only generators that fall under Section 3AA of the *Electricity Act*, "Customer may generate and sell electricity," or generators participating in a NS Power program (legacy Net Metering under Regulation 3.6 and Commercial Net Metering under Section 3A of the *Electricity Act*), have this ability. As stated in its Reply Evidence under M06214, filed January 8, 2016, "net metering arrangements under s. 3A of the *Electricity Act* would not have any bearing on RtR service as the net metering provisions of section 3A apply only to a customer generating electricity for its own consumption."

As stated in NS Power's Reply Evidence in the AAR proceeding filed February 5, 2024, the EBS Tariff was designed for the sole purpose of providing a generation balancing service to the RTR market. This purpose does not imply or infer the ability to spill BTM generation onto the grid.

The EBS Tariff, under the heading, "Availability" states clearly that, "This Energy Balancing Service Tariff is applicable to the LRS in order to facilitate **the purchase** of renewable low-impact electricity by RtR Customers." The EBS Tariff is not designed to facilitate **the sale** of renewable low-impact electricity by RtR customers with "generation coming from different classes of generation at different locations."

Throughout the Board Electricity Retailers Regulations, SNS 2004, c .24, (BER Regulations), , there is explicit distinction between the terms, "Renewable Low-Impact Electricity Generator" when referring to LRS' procured or generated supply, and "Behind-the-Meter" when referring to sales. For instance, Section 23(2) prescribes that, within 30 days of each Compliance Period, an LRS must provide to the Board:

a) *total, in kilowatt-hours, of all Renewable Low-Impact Electricity sales to its Customers;*
b) *total number of Customers under Contract, differentiated by NS Power's rate classes;*
c) ***total <u>purchases</u> of Renewable Low-Impact Electricity from Renewable Low- Impact Electricity Generators <u>at the Point of Interconnection</u>;***
d) *copies of the written confirmation from the Renewable Low-Impact Electricity Generators documenting quantities of Renewable Low-Impact Electricity purchased by the License Holder;*
e) <u>*total generation of Renewable Low-Impact Electricity from Renewable Low-Impact Electricity Generation Facilities **owned or operated by the Licence Holder** at the Point of Interconnection*</u>*;*
f) *transmission and distribution losses; and*
g) *a reconciliation of the net surplus or deficit of Renewable Low-Impact Electricity sales with respect to Renewable Low-Impact Electricity purchases, generation, or combination of purchases and generation, and transmission and distribution losses.*

In the Code of Conduct for Renewable Low-Impact Electricity Sales in Nova Scotia, the following definition of behind-the-meter applies to the RtR market:

> ***"Behind-the-Meter" means the sale of electricity from a Renewable Low-Impact Electricity Generation Facility which is directly connected to a load without using NS Power's transmission or distribution facilities****, including NS Power's meter installed at the Premises. For greater certainty, the electricity that is sold from a Renewable Low-Impact Electricity Generation Facility to a directly-connected party is Behind-the-Meter, while* ***electricity that is sold from the same facility to another party through the use of NS Power's transmission or distribution facilities is not Behind-the-Meter****.*[Emphasis added]

For further clarity, the Purpose and Scope of the Code of Conduct states:

> *This Code applies to all practices used in the Marketing, sale, or offering for sale of renewable low-impact electricity to residential, commercial, and industrial Customers where such Marketing, sale, or offering for sale requires a licence issued by the Board. Where the standards differ amongst classes of Customers based on the amount of electricity used, it is noted.*
>
> *This Code* ***does not apply to*** *the wholesale Marketing, sale, or* ***offering for sale of renewable low-impact electricity to parties who are not retail customers*** *of such electricity,* ***including but not limited to parties served by electricity in a "Behind-the-Meter" arrangement.*** [emphasis added]

Under the "Requirements For Small Volume Customers" portion of the BER Regulations, every reference to "renewable low-impact electricity" is in reference to <u>supply</u> to the Customer, or <u>consumption</u> by the Customer, under Contract with an LRS. See sections 55, 56, and 63(3).

Further, the Board's Order in Matter Number: M06214 concerning the Sale of Renewable Low-Impact Electricity generated within Nova Scotia by a Retail Seller to a Retail Customer pursuant to the *Electricity Act*, begins with the following statement:

> WHEREAS the *Electricity Reform Act*, S.N.S. 2013, c. 34, amended the *Electricity Act* to enable the purchase and sale of renewable low-impact electricity generated in Nova Scotia **from licensed "Retail Suppliers" to "Retail Customers"**, which are terms defined in the *Act* [emphasis added]

Considering the foregoing definitions and provisions of the Code of Conduct, the sale of surplus customer generation in the RtR Market using NS Power's transmission or distribution facilities is not permissible.

NS Power has carefully reviewed the interconnection applications mentioned in Renewall's letter dated June 5, 2024. It is important to clarify that NS Power's interconnection processes are standardized procedures that operate independently of, and without influence over, the Company's policies or regulatory decisions, especially those that are still under development. Two of the three interconnection applications referenced in Renewall's letter were submitted at the end of March 2024 while the feasibility of BTM/net metering discussions were ongoing and unresolved with NS Power. IR 676 was submitted in August 2022 before NS Power and Renewall began conducting analyses on the feasibility of BTM and net metering.

The suggestion that interconnection requests imply policy-related approval or progression stages is incorrect. The interconnection process does not establish precedent-setting approvals for operational approaches. Additionally, the standardized interconnection procedure does not include a step where regulatory approval is sought to identify specific feasibility barriers.

Next Steps

It remains NS Power's position that, while the allowable uses of the distribution system by non-NS Power entities include the use of the NSUARB-approved Distribution Tariff to deliver energy to RtR customers, **they do not include the express ability for the use of this tariff for the sale of surplus customer self-generated energy to a Licensed Retail Supplier in the RtR Market**. In addition, the EBS tariff is not intended to facilitate **the sale** of behind-the-meter generation from retail customers of an LRS to NS Power. Therefore, net metering/billing is not available in the RtR Market under the current legislative and regulatory framework.

5. **Estimated Costs**

As presented to you in our Cost Estimates meeting on May 31, 2024, NS Power estimates the costs of the RtR market development at approximately $6.4M. NS Power and Renewall agreed to a decision request/change request (DR/CR) process going forward for scope, schedule, or cost impacting items. As you know and acknowledged in the May 31, 2024 meeting, further cost estimates may include costs associated with the identification of RtR customers to EfficiencyOne, additions or updates to RCTRA forms, and force majeure support for an LRS.

NS Power wrote to Renewall on June 18, 2024 to confirm a mutual understanding regarding plans for NS Power's capital filing and requesting a Letter of Credit (LOC) to address the issues of potential risk to NS Power customers from a cost recovery perspective. NS Power asked that Renewall provide its input on the terms of the LOC. NS Power awaits Renewall's formal response (including and perhaps beyond what was discussed on our call today).

Conclusion

NS Power has, and continues to, undertake its best efforts to go above and beyond its obligations under section 3G of the *Electricity Act*. While NS Power is committed to working together with Renewall to mark a significant milestone in the Nova Scotian energy landscape, NS Power must also raise all issues and complexities, especially those that could negatively impact NS Power's customers.

Please do not hesitate to contact me to discuss these concerns further. We do think it best that you respond to the summaries of outstanding issues and agreement (or otherwise) to next steps in writing to avoid losing sight of exchanged communication and to keep the issues consolidated as best we can.

We look forward to hearing from you.

Yours truly,

J. Power

Jennifer Power
Senior Counsel, Regulatory Affairs

cc. Jill Searle, NSPSO