BEFORE THE NOVA SCOTIA ENERGY BOARD

IN THE MATTER OF *The Public Utilities Act, R.S.N.S. 1989, c.380* as amended

- and -

IN THE MATTER OF an Application by Nova Scotia Power Incorporated for approval of certain revisions to its Rates, Charges and Regulations (2026 General Rate Application)

CLOSING SUBMISSIONS OF THE SMALL BUSINESS ADVOCATE

The Small Business Advocate (SBA) appreciates the opportunity to provide the following closing submissions with respect to Nova Scotia Power Incorporated's (NSPI) 2026 General Rate Application (GRA).

SETTLEMENT AGREEMENT

Prior to the filing of the GRA, NSPI engaged with several of the intervenors of this matter, including the Consumer Advocate (CA), the Small Business Advocate (SBA), the Industrial Group, Port Hawkesbury Paper LP, and the Municipal Electric Utilities, to discuss the issues facing NSPI and the outline of what was anticipated to be applied for in the 2026 GRA.

These discussions also included several experts that were retained by the various intervenors, the submission of hundreds of data requests and follow up questions to NSPI, and multiple in-person and virtual meetings. The Settlement Agreement[1], as a whole document, reflects the result of careful consideration, analysis, and weighing of outcomes of all the terms included within it by the signatories. The SBA respectfully submits that it is not a piecemeal collection of individually resolved issues; rather, it is a comprehensive and global resolution of the key issues that are before the Board in this Application. The SBA further submits that it includes a balancing of needs, between NSPI's requirements regarding the cost of capital, its return on equity, and credit rating, and the need for safe, reliable, and affordable energy for all customer classes.

The SBA's role is focused on representing the needs of the small business classes in Nova Scotia, specifically the small general, general, and small industrial classes. It is not a role that is taken lightly and it is the main focus that drove all discussions and negotiations with NSPI and the other

[1] M12451, Ex N-27 NSPI (NSEB) RIR – 1, Attachment 1, Pages 1-21.

signatories to the Settlement Agreement. The SBA engaged the services of Daymark Energy Advisors and worked with them to ensure that the Settlement Agreement reflected, on balance, the best outcome for those classes. As the SBA represents three distinct classes, that are impacted differently by the terms of the Settlement Agreement, it has taken a principled approach to the various issues, to identify the most reasonable, fair and equitable resolution.

While no Settlement Agreement is perfect, and there are several issues that have been agreed to solely for the purposes of this GRA but that have not been agreed to on a permanent basis, the SBA submits that the Settlement Agreement is just, reasonable and in the best interest of the rate classes it represents.

The Board has reflected on settlement agreements in the past, including in the last general rate application, when the settlement agreement was reached following the end of the hearing and after the provincial government introduced Bill 212. With respect to the Board's consideration of settlement agreements, it stated[2]:

> [57] In its previous decisions, the Board has set out the principles it applies in its consideration of settlement agreements. Those principles bear repeating. In its decision dated November 5, 2008, about a prior NS Power general rate application, the Board outlined its general approach to settlement agreements submitted to it for approval:
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>> [12] The Board's Regulatory Rules facilitate settlement discussions. The Board welcomes and appreciates the efforts of parties to, in good faith, settle issues, even where, as sometimes happens, a settlement cannot be ultimately achieved.
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>> [13] Where, as here, the Agreement is supported by representatives of all of the customer classes, the Board can have confidence that the Agreement is in the public interest.
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>> [14] Customers of NSPI and members of the public are, perhaps understandably, wary of the settlement process. Many of those customers and members of the public may not appreciate that by the time the hearing commences 80% of the rate hearing process has already happened. NSPI filed extensive evidence, as required by the Board, to support its rate request. Interested parties and Board Staff asked NSPI many hundreds of written questions (Information Requests), to which responses were filed.
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>> [15] All of the parties who chose to do so filed evidence, including expert evidence. Written questions (Information Requests) have been asked of and answered by interested parties who filed evidence. NSPI filed reply evidence. As noted, all of this happened before the hearing was scheduled to begin so that the

[2] NSUARB Decision (M10431), 2023 NSUARB 12, pages 31-33, at paragraphs 57 – 59.

> parties and the Board are well informed about the case in advance of any oral public hearing.
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> [16] The public can rest assured that the Board Members hearing the matter have also thoroughly reviewed all of the material in advance of coming to a decision as to whether to approve the Agreement as being in the public interest.
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> [17] Settlement agreements, while relatively new in regulatory matters before the Board, are common in the litigation process. Within the Board's adjudicative mandate, for example, assessment appeals, planning appeals and other matters are often settled. In the civil courts of Nova Scotia, a much higher percentage of cases are settled than go to trial.
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> [18] That is not to say that the Board would hesitate to reject a settlement agreement it did not consider to be in the public interest, however, it should be understood that a properly supported settlement is a success of the regulatory process, not a failure.
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> [2008 NSUARB 140]

[58] The GRA Settlement Agreement in this proceeding was reached by the parties after the hearing was finished. This matter had a full evidentiary record containing over 30,000 pages of information and spreadsheets, including NS Power's application, Rebuttal Evidence, Fuel Update, 19 expert reports and documents filed by the Intervenors and Board Counsel consultants, 700 Information Requests (IRs) with over 1,900 questions to NS Power and 157 IRs with over 270 questions to Intervenors, about 1,000 letters of comment from members of the public, almost 300 exhibits, and 71 Undertakings filed after the hearing.

[59] The Board remains mindful that in its consideration of settlement agreements its ultimate duty is to ensure that the terms of agreement are just, reasonable and in the public interest:

> [23] ...Settlement agreements do not, however, diminish the Board's duty and obligation to ensure that the terms of any such agreement result in approval of only those costs which are fair, justifiable and prudently incurred by the Utility. Further, the Board must ensure that these costs result in customer rates that are just, reasonable and in the public interest. In addition, when deciding whether to approve a settlement agreement, the Board must be satisfied that the outstanding concerns of all intervenors are adequately considered by the Board and the terms and conditions under which they consent to a settlement agreement are honoured.
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> [*NS Power 2007 GRA decision*, 2007 NSUARB 8]

While in this GRA the Settlement Agreement was reached prior to the filing of the Application, with the contents of the Application incorporating the terms of the Settlement Agreement, the Board was still provided with all of the same materials it would have received in a typical GRA application. Notably, with the Application being consistent with the Settlement Agreement, the Board was in a position to test the terms of the Settlement Agreement specifically through Information Requests and direct evidence, rather than having to consider a settlement agreement that arose after the hearing.

With respect to the testing of the Settlement Agreement, it should be noted that there were almost 400 Information Requests filed, and evidence was submitted by five independent experts, covering a variety of topics. The evidence of NSPI witness panels, and the independent experts, was then tested by the Board, Board counsel, and the intervenors, over a period of four and a half days and 25 undertakings were requested and responded to by NSPI. The SBA respectfully submits that the Application (and the Settlement Agreement which it reflects) has been fully examined and tested and the SBA continues to believe that it is a positive resolution for the customer classes it represents.

MINIMUM SYSTEM METHOD v. BASIC CUSTOMER METHOD

One of the terms of the Settlement Agreement was with respect to the Cost-of-Service (COS) methodology, namely the use of the Minimum System Method for the duration of the test period. The Settlement Agreement included the provision that a separate application would be made to determine the appropriate methodology to be used following the test period. This reflects extensive discussions with NSPI and between the intervenors, including about the appropriateness of the different methods in use in Nova Scotia at this time, and the impact that changing the methodology would have on the different rate classes.

Caroline Palmer, Synapse Energy Economics, filed expert evidence on behalf of Counsel to the Board. In her evidence, Ms. Palmer both recommended that NSPI be directed to discontinue using the minimum system method, but also, considering the Settlement Agreement, that NSPI should continue to use the minimum system method until the separate application is filed and another hearing is held to determine the matter for the future[3]. The SBA supports Ms. Palmer's recommendation that the Minimum System Method should continue to be used by NSPI, until a thorough analysis is completed in a separate matter.

In her evidence, Ms. Palmer referred to the impact of the use of the Minimum System Method on the domestic class, noting:

> …While the Company's revenue allocation approach deemed the domestic class to require an 8% increase when using its COSS as an input, the Company's revenue

[3] M12451, Exhibit 37, Evidence of Caroline Palmer, Synapse Energy Economics, (Synapse evidence) Page 3 at lines 4-11, (PDF 5 of 21)

allocation under a COSS that used the Basic Customer Method deems the domestic class to require a 6% increase[4].

Based on Ms. Palmer's Table 2. *2026 Class Revenue Increases (NS Power's Revenue Allocation Method),* while the domestic class would see a reduction of 2% under the Basic Customer Method, the general class would see an increase of 5.2% and the small industrial class would see an increase of 4.7%[5]. NSPI provided similar calculations in response to undertakings, including the impact of distribution system costs that had been assigned using the Minimum System Method in the Application being assigned 100% to demand[6], and the impact on R/C ratios if a credit for each customer class of 1.5 kilowatts per customer was applied (applying the credit to the NCP demands used for determining the Minimum System demand allocators.[7]) In both cases, the general and small industrial classes bear a significant amount of the impact from the proposed changes.

The SBA acknowledges that residential rate classes are impacted by the use of the Minimum System Method; however, the SBA respectfully submits in assessing the COS methodology, there has to be a proper consideration of actual cost of service – it is not just the impact but also the realities of cost causation. As indicated by NSPI, adjustments were made through the R/C ratio to address the impact, but other customer classes should not have to pay more than the cost causation requires simply to offset any impact to the domestic classes. The SBA submits that it would be unfair to other rate classes.

The SBA respectfully submits the purpose of settlement discussions is to come to an agreement resolving all issues, or as many as possible, in a comprehensive manner. Parties must balance the pursuit of all their individual interests with the benefits of resolution and settlement, which means all parties must give and take. The Settlement Agreement reflects that exchange, including the agreement for NSPI to use the Minimum System Method for 2026-2027. The Parties to the Settlement Agreement, including the CA, who represents that domestic class, agreed that the Minimum System Method would only be used for a limited period of time, (2026-2027) and the Parties agreed to include a specific requirement for the matter to be brought, in 2026, for the Board's determination of the appropriate methodology to be used by NSPI after 2027.[8] The SBA respectfully submits that it is clear that the determination of the appropriate COS methodology is an important issue that requires additional evidence and consideration, absent any other issues that are involved in a general rate application.

Ms. Palmer, in her evidence and testimony, noted that in other jurisdictions which use the Minimum System Method, including Ontario, a peak load carrying capacity (PLCC) is applied to

[4] M12451, Exhibit N-37, Synapse Evidence, Page 15 at lines 14-15 and page 16 atLines 1-2, (PDF 17-18 of 21)

[5] M12451, Exhibit N-37, Synapse Evidence, Page 16 atLine 3, (PDF 18 of 21)

[6] M12451, Exhibit N-76, (i)(ii)(iii), Response to Undertaking 5

[7] M12451, Exhibit N-77, Response to Undertaking 6, Page 1 of 4 (Please note that it is assumed that the second reference to Large General in the Figure is a typo and actually reflect the Small Industrial Class)

[8] M12451, Exhibit N-27, NSPI (NSEB) RIR-1, Attachment 1, Terms of Settlement, COSS (a), Page 10 of 21.

account for demand-related load carrying ability that is already included in the minimum system method[9]. In her evidence, she referenced two documents from the Ontario Energy Board (OEB),[10] and confirmed, in her testimony, that the first paper, the 2005 OEB Cost Allocation Review Discussion Paper, while recommending a PLCC should be implemented, noted that the utilities should be given the opportunity to conduct their own analysis and provide it for consideration. Ms. Palmer confirmed that while she did not know if NSPI had committed to doing such an analysis, she recommended that they be required to do so[11].

Ms. Palmer also referred to the 2006 OEB Cost Allocation Review Board Directions in her evidence and confirmed in testimony that the OEB had determined that a PLCC should be between 0.2 kilowatts and 1.0 kilowatts per customer/connection and ordered a PLCC adjustment of 0.4 kilowatts per customer or per connection. Ms. Palmer further confirmed that it was her understanding that the OEB continues to use this method[12].

Ms. Palmer also stated in her testimony that her recommendation for a PLCC adjustment was 1.5 kilowatts, noting that she used 3 examples in her evidence – 0.4 from Ontario, 1.5 from Minnesota and North Dakota, and the state of New York, which does not use a PLCC. The SBA respectfully submits that the 1.5 kilowatts recommended by Ms. Palmer was not based on any analysis conducted by her on the minimum required clearance, minimum equipment standards, or other factors that must be considered by determining the actual amount of demand capability within the minimum system[13]. The SBA respectfully submits that any application of a PLCC requires a thorough analysis and the recommended PLCC provided by Ms. Palmer lacks the requisite foundation or basis for the Board to approve its adoption.

The SBA respectfully submits that the determination of a COS methodology involves consideration about the impacts between the different classes, and it is essential for those rate class representatives to have the opportunity to put forward their positions, with expert testimony if required, in order to ensure that the Board has all of the relevant information before it.

[9] M12451, Exhibit N-37, Synapse Evidence, Page 12 at lines 103 (PDF 14 of 21)

[10] M12451, Exhibit N-37, Synapse Evidence, Page 12 at Footnotes 20 and 21, (PDF 14 of 21); Exhibit 63, Ontario Energy Board, Cost Allocation Review – Staff Discussion Paper(2005 OEB Cost Allocation Review) (September 2005); Exhibit 64, Ontario Energy Board, EB-2005-0317, Cost Allocation Review: Board Directions on Cost Allocation Methodology for Electricity Distributors. (2006 OEB Cost Allocation Review) (September 2006).

[11] M12451, Testimony of Caroline Palmer, January 13, 2026, Transcripts Jan 13 Part A, Pages 1302-1303

[12] M12451, Exhibit 64, 2006 OEB Cost Allocation Review; Testimony of Caroline Palmer, January 13, 2026, Transcripts Jan 13 Part A, Pages 1306-1308.

[13] M12451, Testimony of Caroline Palmer, January 13, 2026, Transcripts Jan 13 Part A, Pages 1311-1312.

SECURITIZATION

The concept of securitization has been before this Board on a number of occasions, usually as a recommendation to NSPI to explore. In this GRA, NSPI is proposing that it will undertake securitization of the assets in the Depreciation Deferral Account (DDA), totaling approximately $700 million. The intention of NSPI is to make an application for approval of the securitization once the anticipated securitization regulations are in place, the timing of which is unknown at this time.

The SBA respectfully submits that the securitization of the DDA assets would result in a significant savings for current NSPI ratepayers, and acknowledges it comes at the expense of future NSPI ratepayers. However, that is not an uncommon exercise in utility rate-making, as the timing of expenses do not always align with when those expenses are paid. The SBA submits that this has been done in the past, and will continue to be done, as the electricity grid changes and expenses that are incurred today are, in actual fact, for the benefit of future ratepayers. Bringing in more renewable resources is not solely about the people paying for electricity today – rather it is about the future of Nova Scotia and its environment. It is essential that we ensure that current ratepayers, including small businesses that support our communities, are able to continue, so that they are the ones contributing to Nova Scotia far into the future.

While approving securitization is not before the Board today, it is important that the Board give it the appropriate consideration as the assumptions regarding securitization, and its benefits to rate payers, form an important part of the GRA. Should securitization not proceed during the test period, there could be significant financial impacts for NSPI ratepayers, which cannot be avoided.

With respect to NSPI's request for approval of a deferral of the depreciation expense and financing costs of the unrecovered net book value of the DDA as of December 31, 2025 at WACC, the SBA submits that no deferral should be granted that starts prior to the effective date of any change in rates that this Board may order. NSPI is currently collecting rates that were set on the basis that some amount of depreciation expense and financing costs for the DDA assets were included[14], and approving a deferral prior to those rates being changed to exclude those costs risks NSPI over collecting.

It would also not be appropriate to approve one change to the current rates, when the rates are based on a collection of factors. Approving the deferral for the depreciation expense and financing costs of the unrecovered net book value of the DDA prior to the change of the overall rates would result in a revision to one aspect of the current rates without the other changes being proposed in this GRA. The SBA respectfully submits that, should the Board determine that a deferral of the depreciation expense and financing costs of the unrecovered net book value of the DDA be

[14] M12451, Evidence of NSPI, Transcripts January 7, 2026 – Page 213, at lines and Page 214, at lines 1-2.

appropriate, that it should be effective no earlier than the effective date of any overall change in rates pursuant to this Application.

SUMMARY

The SBA respectfully submits that terms of the Settlement Agreement are comprehensive and global and reflect extensive work undertaken by customer class representatives. No term was agreed to in isolation, or without thorough discussions with experts, and the SBA respectfully submits that this Application should be considered within that context.

The SBA submits the Settlement Agreement, and the Application that reflects its terms, is a reasonable, fair and equitable resolution for the small businesses of Nova Scotia and recommends that the Application be approved by the Board.

Dated at Bedford, Nova Scotia, this 30th day of January, 2026.

Melissa P. MacAdam
Small Business Advocate