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

M12451

2026-2027 General Rate Application

Nova Scotia Power
Reply to Closing

February 6, 2026

NON-CONFIDENTIAL

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1.0 INTRODUCTION

On January 30, 2026, Nova Scotia Power Incorporated (NS Power, Company) received closing submissions from the Nova Scotia New Democratic Party (NDP) and Liberal caucuses, the Department of Energy (DOE), Renewall Energy Inc. (REI), Port Hawkesbury Paper (PHP), the Municipal Electric Utilities (MEUs), the Consumer Advocate (CA), Small Business Advocate (SBA), and the Industrial Group (IG). The following is NS Power's reply to those submissions.

2.0 REPLY TO THE CLOSING SUBMISSIONS OF THE NOVA SCOTIA NDP AND LIBERAL CAUCUSES

First, a general note on the role of partisanship and politicians in the regulatory process – administrative tribunals are quasi-judicial, not political arenas. Their purpose is to develop a fact-based evidentiary record to allow an independent regulator to apply its statutory mandate grounded in its enabling legislation.

While the Nova Scotia Energy Board's (Board, NSEB) process in Nova Scotia provides space for elected officials to offer high-level perspectives, the integrity of a regulatory proceeding ultimately rests on the evidence, testing of the record, and engagement with the issues before the panel. Statements that are not grounded in that record, or that advance characterizations untethered from the evidence tested in this proceeding, are of limited assistance to the Board's task.

The Board has previously provided comment on this, particularly in relation to rate proceedings. In 2005, the Board ruled:

> It is in the interests of all Nova Scotians to ensure that NSPI continues to be a stable and financially sound company. This is a reality which the Board must consider when determining what, if any, rate increase is warranted.
>
> In short, rates charged to customers are based on costs incurred by the Utility in providing service. If the Board finds certain costs to be imprudent or unreasonable, it can (and has) disallowed such expenditures and reduced proposed rate increases

> accordingly. The Board cannot, however, make rate decisions based solely on reliability issues or current public opinion of the Utility. There are appropriate sanctions a regulator can impose should a Utility be found to have an inadequate or unreliable system. In many cases, it is likely such sanctions would involve higher expenditures, rather than reductions in costs. However, the practical reality in a regulated utility environment is that sanctions for service-related issues generally do not include a moratorium on rate increases.[1]

Similarly, in the 2022-2023 GRA Decision, the Board held:

> The Board is keenly aware that electricity rates are already challenging for many customers and any rate increase will be difficult, especially for those with low or fixed incomes. However, the Board does not have the authority to provide special rates for these customers and, as noted by the Nova Scotia Court of Appeal, the Board's regulatory power under the *Public Utilities Act* is not an instrument of social policy.
>
> Further, consistent with principles of utility rate regulation recognized by the Supreme Court of Canada, the Board cannot simply disallow NS Power's reasonable costs to make rates more affordable. These principles ensure fair rates and the financial health of a utility so it can continue to invest in the system providing services to its customers. While the Board can (and has) disallowed costs found to be imprudent or unreasonable, absent such a finding, NS Power's costs must be reflected in the rates paid by customers. Regulatory tools, such as deferrals, are available to the Board to mitigate the impact of rate increases, but there are trade-offs involved with using these tools as they often result in higher costs in the longer term.[2]

Taken together, the Board's decisions make clear that while affordability, reliability, and public concern are important contextual considerations, they do not displace the Board's core function: to decide matters based on a tested evidentiary record and established principles of utility regulation. Political commentary or generalized assertions, however sincerely held, do not substitute for evidence of imprudence or unreasonableness. Furthermore, in electric utility proceedings before the Board, the *Public Utilities Act* (PUA) stipulates that it is the CA who is to "represent the interests of residential consumers" and, similarly, that it is the SBA who is to

[1] *Nova Scotia Power Inc., Re,* 2005 NSUARB 27 at paras 18 and 19.
[2] *Nova Scotia Power Inc. (Re)* 2023 NSUARB 12 at paras 8 and 9.

"represent the interests of small business". While, undoubtedly, elected officials' interest and desire to represent their constituents is genuine, legitimate, and appropriate, the reality is that the interest of their constituents is represented in the regulatory context by the broad statutory mandate of the CA and SBA. In considering the submissions from elected officials, the Board must consider this fact.

With that said, and to ensure the Board's findings rest on the record properly before it, NS Power wishes to respond directly to certain claims made by the NDP Caucus and Liberal Caucus in their closing submissions. Any specific points or statements that are not responded to directly, should not be taken by the Board to mean that NS Power agrees, but rather that NS Power instead relies on its general remarks made in the foregoing.

In its Closing Submission the NDP Caucus stated:

> We also recommend considering Exhibit N-77, evidence submitted during this hearing, to estimate rate increases using a cost-of-service methodology that is less biased against residential customers, so that Nova Scotian households don't bear an outsized burden of any increase.

While the Liberal Caucus stated:

> Nova Scotia Power has done little to minimize this application's impact on residential customers. The Board heard that the Utility's use of a minimum system method to determine cost of service significantly increases rates charged to residential consumers, compared to alternatives like the basic customer method. Switching to a basic customer method to determine cost of service, as recommended in a recent decision in Connecticut (Exhibit N-44), could reduce the increase faced by customers.

NS Power's Response:

NS Power's current cost-of-service (COS) methodology is not biased towards or against any particular customer class. It is based on an established, widely accepted framework used across Canada and is designed to reflect sound cost causation principles.

NS Power's COS methodology assigns costs to customer classes in proportion to the resources they use and the system infrastructure required to serve them – this is the foundational principle of cost causation in cost allocation methodology. Residential customers' rates reflect the cost of generation, transmission, distribution and retail services associated with their use of the system. Adjusting the methodology to reduce or shift costs away from one class to other classes would compromise the alignment between cost responsibility and service usage and would depart from established regulatory practice.[3] There is nothing biased about the process or its outcome. The fact that customer representatives support the process and outcome is evidence of this.

Notwithstanding the foregoing, NS Power recognizes the outcome has impacts on its customers and the potential for residential customers to experience a greater burden. The NDP and Liberal Caucuses raise important concerns about affordability and NS Power shares those concerns. On pages 175-177, 733-736, 744-747, and 940-947 of the Transcript, NS Power's witness panel discussed what the Company does to try to address those concerns and the impacts electricity rates may have on its customers. The assertion that NS Power has done little to minimize the impact of this application on residential customers is entirely false and is not supported by the record. If the PUA permitted low-income rates to be developed, even more could be done.

Turning to the Liberal Caucus' comment as it relates to the Basic Customer Method, the Basic Customer Method is not used by any jurisdiction in Canada. As noted in the Company's Closing Submissions, the Elenchus jurisdictional scan showed that across Canada, either the Minimum System or Zero Intercept method is chosen and that the Basic Customer Method has not been endorsed by any Canadian regulators.[4]

Furthermore, in the Connecticut regulatory process, referenced by the Liberal Caucus, in which Ms. Palmer advocated for the adoption of the Basic Customer Method, the Connecticut Public Utilities Regulatory Authority did not accept Ms. Palmer's evidence and declined to adopt the Basic Customer Method.

[3] Exhibit N-9, Appendix 12B Elenchus COSS report, p 14 of 55 (PDF page 1669 of 1738).
[4] Transcript, January 7, 2026, page 156 (PDF Page 164/336), lines 1-13.

The Liberal Caucus Closing Submission states**:**

> Nova Scotia Power attempted to rush through this application as quickly as possible. On January 9th, Nova Scotia Power's senior director of regulatory affairs, Blake Williams testified that by April 2025, the utility was aware that existing revenues could not sustain operations in 2026 and 2027, and completed cost of service, depreciation, and cost of capital studies. Despite that knowledge, Nova Scotia Power chose not to file its General Rate Application at that time, allowing costs to continue to accumulate before returning to the Board with a larger request. The consequence of that decision is borne entirely by customers.

NS Power's response:

The GRA process began with the fulsome Cost-of-Service-Study (COSS) process initiated in December of 2023 and this aspect of the GRA continues today with these submissions. NS Power also engaged substantively with customer representatives regarding the overall GRA beginning in Q2 of 2025, undertaking substantive consultation and information exchange, and that process also continues today with these submissions. Any suggestion that NS Power rushed through this process "as quickly as possible" is incorrect and is not based on the facts or evidence.

NS Power took the time necessary to complete a robust COSS process, and a lengthy and detailed settlement process with customer representatives in advance of filing the GRA. That process resulted in narrowing the issues, in agreement to outcomes that directly benefit customers, and improved regulatory efficiency in a way that would not have been possible had the application been filed earlier. Proceeding in this manner did not allow "costs to continue to accumulate" or result in "a larger request." Again, such statements have no relation to fact and are certainly not consistent with the evidence. To the contrary, due to the process advanced by NS Power, as is clear in the Settlement Agreement, discussions and negotiations with customer representatives resulted in approximately $60 million in savings for customers.

A further statement made in the closing submissions of the Liberal Caucus provides:

> It is clear that Nova Scotia Power cannot continue with serial, reactive rate applications. The utility demonstrated that it is capable of multi-year forecasting through its cost-of-service, depreciation, and capital planning evidence. The Board, for its part, has explicit authority under Section 64A(2B) of the Public Utilities Act

> to order staged or multi-year general rate increases. We encourage the Board to approve five-year rate increases moving forward, to provide stability and predictability for customers.

NS Power's Response:

NS Power's GRAs are not reactive. They are prospective, two-year applications grounded in forward-looking cost-of-service, depreciation, and capital planning evidence. The objective is to set rates based on anticipated requirements over a defined period, rather than to respond after costs have already been incurred.

NS Power agrees, however, that greater certainty and predictability for customers is an important goal. To that end, the Company has been actively pursuing regulatory changes intended to improve stability, including proposals that would align the timing of rider filings. The Company remains open to discussing additional changes to the regulatory framework that could support alternative approaches to rate-setting, including longer-term structures.

That said, any shift to staged or multi-year general rate increases of the type contemplated under section 64A(2B) of the PUA would ultimately be a matter for the Board to determine. Such an approach would need to account for the practical and statutory realities identified in NS Power's closing submissions and in response to questions from the Board panel, including those raised by the Board Chair.[5]

[5] Transcript, Jan 12, 2026, pages 1046 – 1053 (PDF pages 120 – 129).

3.0 REPLY TO THE CLOSING SUBMISSION OF THE DEPARTMENT OF ENERGY

The Department of Energy's (DOE) characterization of the settlement process as "closed-door" is surprising and inaccurate. The settlement process, which the DOE supported and was fully apprised of throughout, included the statutorily appointed CA and SBA, as well as the chosen legal counsel of other customers, along with each of their respective expert consultants.

Furthermore, the DOE's characterization of the record as incomplete or deficient is also inaccurate, as the Settlement Agreement and GRA, including all mandatory appendices, figures, disclosures, and studies have been filed on the public record. Once filed, interested parties including the IG, CA, PHP, Renewall, six Board Counsel expert consultants, and Board staff asked NS Power hundreds of information requests which were responded to in full. All parties who chose to do so filed evidence, including six independent expert evidence reports obtained by Board Counsel. Notably, the DOE did not file evidence, nor did it participate in the hearing process.

In short, a full regulatory process has been undertaken. The only procedural steps that were not included in the regulatory process, at NS Power's election, were the opportunities for NS Power to ask information requests and submit rebuttal evidence.

NS Power will reply to each of DOE's requests in turn below.

a) Return on Equity

The DOE has offered no justification for its request that NS Power's return on equity be set at 7.6 percent, other than the mere presence of Dr. Cleary's evidence on the record. While the DOE states that NS Power did not offer any rebuttal to Dr. Cleary's evidence, again this is not true, as Dr. Cleary's evidence was rebutted by Mr. Coyne in his oral testimony and also within NS Power's Closing Submissions. What should also be seen as rebuttal of Dr. Cleary's evidence is the agreement and support from customer representatives for the use of 9 percent as the return on equity. Notably, the DOE has offered no evidence or submissions to rebut the evidence of Mr. Coyne. In fact, the DOE's submissions do not reference Mr. Coyne's evidence at all; however, the

DOE submissions do provide support for Mr. Coyne's evidence as they only serve to further demonstrate NS Power's risk profile is higher than its peers. NS Power continues to rely on the evidence on the record in this proceeding and on its closing submissions to justify the requested, and customer representative-supported, 9 percent return on equity.

b) Valuation of Assets

The DOE provides its submissions regarding the valuation of assets at pages 4 (para 19(d)) and 5-14 of its filing. NS Power believes the concerns expressed therein can be addressed by providing a clearer understanding of the legal, regulatory, and factual background.

As a starting point and, as already addressed in part in section 3.5.1 of NS Power's Closing Submissions, an accurate overview of the timeline is helpful in addressing these issues.

Depreciation and Environmental Policy/Law

In 2010/2011, NS Power brought forward a depreciation study seeking approval from the Board of the resulting depreciation rates (M03665). The assumed retirement dates for steam generation units (including coal units) that were included in that study all assumed retirement by 2030 but for Point Aconi and Trenton 6 (which at the time were assumed to be 2039 and 2037, respectively). In its application, NS Power indicated that the retirement dates it had used were reflective of the uncertainty that existed beyond 2020 due to further carbon emissions regulations and a new anticipated federal government framework (see Exhibit N-1, page 13 of 29).

In that process (M03665), evidence was submitted on behalf of the CA by Mr. Paul Chernick of Resource Insight, Inc. (Exhibit N-8), on behalf of NSEB counsel by Mr. Jacob Pous of Diversified Utility Consultants, Inc (Exhibit N-9), and on behalf of NewPage Port Hawkesbury Corp. and Bowater Mersey Paper Company Limited by Mr. James Selecky of Brubaker & Associates, Inc. (Exhibit N-10). In their evidence, all three independent experts disagreed with NS Power's assumed retirement dates claiming that, despite NS Power's reliance on and reference to anticipated environmental regulations and policy, there was no support to use the accelerated retirement dates and recommended that the Board extend the lives and accordingly reduce depreciation expense.

Arising out of this unanimous position from these independent expert consultants, representing customers and NSEB counsel, came the 2011 Depreciation Settlement Agreement, whereby, among other things, NS Power agreed to reduce the depreciation rates for steam generation units. One of the terms of the 2011 Depreciation Settlement Agreement provides that, notwithstanding NS Power's agreement to reduce depreciation rates below what the Company had proposed, "NSPI is entitled to full recovery of and a return on the prudently incurred investment in its regulated assets regardless of the depreciation methodology employed from time to time." The Board then approved the 2011 Depreciation Settlement Agreement and the resulting depreciation rates (2011 NSUARB 64).

Subsequently, the resulting depreciation rates were used as an input to the 2013-2014 GRA.

While the DOE's submissions suggest that it is "remarkable" and "egregious" that another depreciation study was not completed until this GRA proceeding, it is not at all remarkable or egregious when the full context is considered.

Following the 2013-2014 GRA, no further general rate adjustment was sought in Nova Scotia until the 2023-2024 GRA, which was applied for in 2022. Because no general rate adjustment was pursued between these proceedings, no depreciation study was undertaken during that period. This is not uncommon and, as previously stated, is certainly not "remarkable" or "egregious". New depreciation rates would only take effect as part of a general rate adjustment. Therefore, there would be no reason to undertake a depreciation study, absent a proposal to adjust rates.

An important point that the DOE's submissions raise, is that there were many shifts and changes in government environmental policy related to steam/coal electricity generation occurring during the period between the 2013-2014 and 2023-2024 GRAs. However, the DOE submissions do not convey an accurate understanding of those policy developments.

Throughout its submissions, the DOE suggests that in 2018 "when the Federal Government enacted regulations under SOR/2012-167 [Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations] requiring all coal facilities to be retired by 2030"[6] there was somehow a failure to reassess the lifespans of coal generation units in Nova Scotia. In this vein, the DOE submissions continue:

> In M08929, NS Power's 2020 Integrated Resource Plan, there are many references to a "2040 coal phase-out schedule" in direct contravention to the Federal law in place at the time, indicating that NS Power had publicly not internalized the change in retirement date and was set on continuing its investment plan in 2020.[7]

What is apparent from the DOE submissions is that they are not aware of the series of Equivalency Agreements that were entered into between the Federal Government's Ministry of Environment and the Nova Scotia Government's Ministry of Environment.[8] In 2020, the official title of the relevant agreement was, "An agreement on the equivalency of federal and Nova Scotia regulations for the control of greenhouse gas emissions from electricity producers in Nova Scotia, 2020".[9] It replaced the prior equivalency agreement that had been in place from 2015-2019. It was signed on November 14, 2019 and came into force on January 1, 2020, the effect of which was that the Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations, SOR/2012-167, continued to be inapplicable in Nova Scotia. As such, there was no requirement in Nova Scotia to retire coal generating units by 2030.

[6] DOE Closing Submissions, paragraph 59. It should be noted that the DOE's submissions repeatedly reference 2016 in relation to regulations under SOR/2012-167, but the reference should be to 2018.
[7] DOE Closing Submissions, paragraph 62.
[8] https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/agreements/equivalency.html
[9] https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/agreements/equivalency/canada-nova-scotia-greenhouse-gas-electricity-producers-2020.html

As explained in section 3.5.1 of NS Power's Closing Submission, there was no requirement to retire coal generating units by 2030 *until* late 2021 when both the Provincial and Federal Governments accelerated their decarbonization policies.

NS Power had been considering potential mechanisms to address the shifting environmental policy and, upon this acceleration occurring, was able to immediately react. As part of its 2023-2024 GRA filing, which was made in January 2022, it proposed the Decarbonization Deferral Account (DDA). As previously stated in NS Power's Closing Submission, the purpose of the DDA was to avoid the need to accelerate the recovery of the remaining costs of the coal assets and the resulting substantial increase in rates that would occur if a conventional depreciation study update was undertaken. Rather, the DDA provided a path to develop a more flexible and affordable approach to address the remaining costs. Again, as stated in NS Power's Closing Submissions, in the Board's process to consider the DDA, securitization was recognized by parties as potentially the ultimate solution where the most savings could be generated for customers; however, one of the requirements for it to move forward is enabling legislation/regulations. Necessary first steps in this regard are evident from the enactment of s. 35G of the PUA in Bill 404 and Deputy Gatien's letter found at Appendix 8F of the GRA.

Utility Asset Disposition (UAD) Decisions and Relevant Caselaw

At pages 5-14 of its closing submissions, the DOE places heavy reliance on the 1898 U.S. Supreme Court (USSC) decision of *Smyth v. Ames* and the UAD line of decisions from Alberta, including the Supreme Court of Canada's (SCC) decision generally referred to as "Stores Block". The DOE relies on these decisions in support of its apparent position that the coal assets are "stranded assets", that they should be therefore "written down" by some unquantified amount that the Board sees as being appropriate, and that the shareholders of NS Power ought to incur the cost of that write down.[10]

[10] DOE Closing Submission, page 11.

However, the DOE's position is entirely without merit for the following reasons:

- The coal assets are not stranded. They are operational assets used in the provision of electricity service to Nova Scotians. In other words, they are "used and useful."
- As part of the common law regulatory compact, which is codified within the PUA, NS Power is entitled to an opportunity to receive a return on and a return of capital.
- Given the foregoing, even if the coal assets were not "used and useful," the UAD line of decisions is not applicable and has not been adopted by any jurisdiction outside of Alberta.

Coal Assets are not Stranded Assets

An asset is said to be "stranded" if it is not, or can no longer be, used for utility service and has not been completely depreciated. However, the coal assets are used in providing utility service and are anticipated to be used in such a capacity for a number of years to come. Therefore, the DOE's use of and reliance on the UAD line of decisions is fundamentally incorrect.

In the normal course of utility regulation, the depreciation rates for the coal assets would be adjusted in line with their accelerated retirement dates, but this, as previously mentioned, would result in substantial rate increases. Rather than take this approach, NS Power, with support from customer representatives and the Board's approval, has proceeded in the current manner, which is aimed at identifying a different approach that will reduce costs and the impact on customers.

Regulatory Compact and the PUA

The regulatory compact is an established principle in Canadian jurisprudence. It was recognized as early as 1929 by the Supreme Court of Canada in *Northwestern Utilities Ltd. v. Edmonton (City)* [1929] S.C.R 186 where the Court considered what was meant by a "fair return" (pages 192-193):

> The duty of the Board was to fix fair and reasonable rates; rates which, under the circumstances, would be fair to the consumer on the one hand, and which, on the

> other hand would secure to the company a fair return for the capital invested. By a fair return is meant that the company will be allowed as large a return on the capital invested in its enterprise (which will be net to the company) as it would receive if it were investing the same amount in other securities possessing an attractiveness, stability and certainty equal to that of the company's enterprise.

The principle was more explicitly recognized by the SCC in its decision in *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)* 2006 SCC 4 (ATCO Gas & Pipelines) (paras 62-64 and 78):

> Rate regulation serves several aims – sustainability, equity and efficiency – which underlie the reasoning as to how rates are fixed:
>
> … the regulated company must be able to finance its operations, and any required investment, so that it can continue to operate in the future. … Equity is related to the distribution of welfare among members of society. The objective of sustainability already implies that the shareholders should not receive "too low" a return (and defines this in terms of the reward necessary to ensure continued investment in the utility), while equity implies that their returns should not be "too high".
>
> (R. Green and M. Rodriquez Pardina, Resetting Price Controls for Privatized Utilities: A Manual for Regulators (1999), at p. 5)
>
> These goals have resulted in an economic and social arrangement dubbed the "regulatory compact", which ensures that all customers have access to the utility at a fair price – nothing more. … Under the regulatory compact, the regulated utilities are given exclusive rights to sell their services within a specific area at rates that will provide companies the opportunity to earn a fair return for their investors. In return for this right of exclusivity, utilities assume a duty to adequately and reliably serve all customers in their determined territories, and are required to have their rates and certain operations regulated (see Black, at pp. 356-57; Milner, at p. 101; Atco Ltd., at p. 576 [Atco Ltd. v. Calgary Power Ltd., 1982 CanLII 208 (SCC), [1982] 2 S.C.R. 557]; Northwestern Utilities Ltd. v. City of Edmonton, 1929 CanLII 39 (SCC), [1929] S.C.R. 186 ("Northwestern 1929"), at pp. 192-93).
>
> Therefore, when interpreting the broad powers of the Board, one cannot ignore this well-balanced regulatory arrangement which serves as a backdrop for contextual interpretation. The object of the statutes is to protect both the customer and the investor (Milner, at p. 101). The arrangement does not, however, cancel the private nature of the utility. In essence, the Board is responsible for maintaining a tariff that enhances the economic benefits to consumers and investors of the utility.

> […]
>
> At the risk of repeating myself, a public utility is first and foremost a private business venture which has as its goal the making of profits. This is not contrary to the legislative scheme, even though the regulatory compact modifies the normal principles of economics with various restrictions explicitly provided for in the various enabling statutes.

The NSEB's 2012 decision in NS Power's 2013-2014 GRA (M04972) discussed the regulatory compact in the context of the PUA at paragraphs 15-20:

> NSPI is a vertically integrated, investor-owned, regulated public utility with a virtual monopoly on electricity service throughout the province. It is the primary electricity supplier in Nova Scotia, providing over 95% of the electricity generation, transmission and distribution in the province. The Act gives the Board broad regulatory oversight over public utilities and provides it with the authority to discharge its regulatory responsibilities. The Act requires the Board to use a cost for service method for setting rates. The Board must allow NSPI to recover its prudent and proper costs of providing each type of service and a return on its rate base or capital assets.
>
> In legislation, the word "shall" is mandatory. Therefore, the Board is required to determine NSPI's costs and assets in providing each type of service. Section 42(1) provides:
>
>> 42(1) The Board shall fix and determine a separate rate base for each type or kind of service furnished, rendered or supplied to the public by a public utility. [Emphasis added in original]
>
> The Board must provide a rate of return to NSPI each year. Section 45(1) reads:
>
>> 45(1) <u>Every public utility shall be entitled to earn annually such return</u> as the Board deems just and reasonable on the rate base as fixed and determined by the Board for each type or kind of service furnished, rendered or supplied by such public utility, provided, however, that where the Board by order requires a public utility to set aside annually any sum for or towards an amortization fund or other special reserve in respect of any service furnished, rendered or supplied, and does not in such order or in a subsequent order authorize such sum or any part thereof to be charged as an operating expense in connection with such service, such sum or part thereof shall be deducted from the amount which otherwise under this Section such public utility would be entitled to earn in respect of such service, and the net earnings from such service shall be reduced accordingly. [Emphasis added in original]

> This return must be in addition to NSPI's prudent and proper operating expenses of providing the services. Section 45(2) states:
>
> > 45(2) <u>Such return shall be in addition to such expenses</u> as the Board may allow as reasonable and prudent and properly chargeable to operating account, and to all just allowances made by the Board according to this Act and the rules and regulations of the Board. [Emphasis added in original]
>
> NSPI, like all other business, experiences cost increases in virtually every expense it incurs to produce electricity for the people of Nova Scotia. The Act requires the Board to ensure these prudent and proper costs are recovered in NSPI's rates.
>
> A fair return on rate base is important for the sustainability of the service. A low return on rate base may cause people to not invest in the Utility. It may also lead to a poor bond rating, which may cause financial institutions to increase the rate of interest on monies NSPI needs to borrow to provide the service. This may result in NSPI's rates increasing solely to cover the additional costs of borrowing money, without even addressing the increases in the operating expenses.

The regulatory compact is the fundamental principle of public utility regulation and, as discussed by the Board in its M04972 decision, is codified in section 45 of the PUA.

More recently, the regulatory compact was addressed by the Board as part of its 2023-2024 GRA decision (M10431), in which the Provincial Department of Natural Resources and Renewables (now, the Department of Energy) actively participated. In discussing the DDA and coal assets, the Board stated at paragraphs 298-299:

> In the Board's view, it is important to note that the DDA as presented by NS Power's application, was proposed by the Company in the context of the requirement to retire a significant amount of thermal assets, as provincial and federal policymakers desire transformative change to reduce carbon and emissions on an accelerated timeline.
>
> In this context, NS Power is a utility regulated under a cost of service model. This means the Company is allowed to recover its prudently incurred costs in the provision of service to customers and may earn a reasonable return on its related invested capital. Therefore, where the Company has made an investment to the benefit of customers but related prudently incurred costs of capital have yet to be recovered, NS Power may recover these costs even after capital assets have been retired, in circumstances where the assets were retired due to change in public policy beyond its control. Further, since the costs have yet to be recovered, there are still debt and equity financing costs associated with these investments. <u>None of</u>

> the parties in this proceeding have suggested that NS Power is not entitled to recover such costs. (emphasis added)

As is demonstrated by the foregoing, the ability of NS Power to recover its capital investment in its coal assets within electricity rates is not an open question. The recovery of capital in general is consistent with the common law and the PUA, and the recovery of the coal asset capital investment, in particular, has already been addressed and confirmed by the Board in past proceedings in which DOE's predecessor actively participated.

UAD Line of Decisions

As previously noted, the UAD line of decisions from Alberta, including the SCC's Stores Block decision are not applicable here, but, even if the coal assets were considered "stranded assets", these decisions have historically had no application outside of Alberta.

The Stores Block decision did not concern stranded assets, or the setting of just and reasonable rates. Rather, it addressed the treatment of profits from the sale of utility surplus lands, the (then) Alberta Energy and Utilities Board's approval of the sale of such lands, and a condition attaching to such an approval.

The Alberta Utilities Commission (AUC) stretched the interpretation in Stores Block, applying it in a number of stranded asset contexts with the Alberta Courts affirming those decisions on a reasonableness standard; however, these decisions have not been applied or adopted anywhere outside of Alberta.

More recently, the UAD line of decisions has been brought to an effective end in Alberta by the Alberta Court of Appeal's decision in *ATCO Electric Ltd. v Alberta Utilities Commission*, 2023 ABCA 129 (Wood Buffalo). That case arose from the AUC's decision to deny ATCO Electric its ability to recover the net book value of assets destroyed in the Wood Buffalo wildfire. In Wood Buffalo, the Court of Appeal determined that the AUC had "overread the implications" of Stores

Block, concluding that the AUC's decision was based on errors of law, and remitted the matter to the AUC for its reconsideration. On reconsideration (Decision 28320-D01-2023), the AUC reversed its original decision and allowed ATCO Electric to include the net book value in its rate base.[11]

Simply put, the UAD decisions are not relevant and have no applicability to the current context.

Similarly, the DOE's submissions refer to and appear to rely upon the USSC 1898 decision in *Smyth v. Ames*. That decision, somewhat ironically, relates to the USSC's ruling that a Nebraska state law which capped railroad freight rates was unconstitutional because it was confiscatory in nature by preventing railroad companies from earning reasonable compensation for their services and, therefore, violated the 14th Amendment. As a result, *Smyth v. Ames* also is not relevant and has no applicability to the current context.

c) Lingan 2 Sustaining Capital

The DOE's request to disallow sustaining capital for Lingan Unit 2 is concerning, as it reflects a fundamental misunderstanding of both the purpose and implications of such a request. The only rationale provided in support of a "disallowance" is "NS Power's failure to sufficiently plan for 2030 over the last decade."[12] That assertion is not supported by any evidence in this proceeding. In reality, NS Power's planning and asset management strategies have directly benefited customers by deferring this significant investment for as long as possible. Without proactive and innovative risk management, this major expenditure would have been necessary years earlier. Further, the sustaining capital costs are forecast and have not yet been incurred. As noted in NS Power's Closing Submissions, the Company will bring forward a further capital application for the capital

[11] It is worth noting that *Wood Buffalo* was heard and determined by the Court of Appeal after the SCC's decision in *Minister of Citizenship and Immigration v Vavilov*, 2019 SCC 65 (Vavilov), which required the AUC's decision on a question of law to be reviewed on a standard of correctness, rather than prior to *Vavilov* where the AUC's UAD decisions on questions of law had been reviewed on a reasonableness standard.
[12] Closing Submission of the Department of Energy, p 11, para 67.

costs and operating costs associated with continuing to run Lingan 2 as a system resource given current and foreseeable constraints.

On this issue, it is important to note two central facts: (1) as discussed at pages 926-929 of the Transcript, the retirement date of Lingan 2 is not within NS Power's control as procurement for replacement generation is not being led by NS Power; and (2) the proposed sustaining capital is required to maintain safe and reliable operations for as long as the unit remains in service.

Due to uncertain timelines of replacement generation, coupled with increasing growth in peak demand, NS Power's evidence clearly demonstrates that Lingan 2 remains an essential asset, supporting system reliability, maintaining compliance with NERC and NPCC requirements, and ensuring adequate firm capacity for customers.

d) Securitization

The DOE's submissions regarding securitization, on pages 4, 14, and 15 of its filing, communicate the DOE's desire to deliver on initiatives that will protect customers and provide them with relief, savings, and benefits. Stating at paragraph 91 that this "is consistent with the Province's policy framework on securitization as articulated in the letter of Deputy Gatien dated May 6, 2025, included in this application". It is also consistent with the Province's actions in Bill 404 to enact section 35G of the PUA, which began to pave the path for securitization.

While the DOE's submissions acknowledge the potential benefits of securitization, they express reservations regarding whether securitization will save customers money (see paragraph 94) and whether the coal assets are fairly valued (see paragraphs 19(d) and 92). It is NS Power's hope that this process will address these reservations and that, ultimately, the Board's decision will also address these issues to assist in providing the DOE with the information and confirmation it needs.

The record reflects that securitization will save customers as much as $85 million in the 2026-2027 period. The calculations and assumptions used to derive this benefit were provided on the record in this proceeding in response to MPA IR-07. No parties have taken issue with or otherwise questioned the validity of these calculations, assumptions, and savings.

Importantly, the evidentiary record reflects broad and informed support for securitization of thermal assets. The CA, the IG, the SBA, PHP, the MEUs, and Board counsel's independent consultants, Morrison Park Advisors (MPA) and Emrydia, have all expressed support for securitization based on the fact that it will protect customers from the economic impacts that would otherwise be incurred as a result of the energy transition and, in doing so, will save customers money.

Board counsel consultant Dustin Madsen of Emrydia confirmed at page 117 of his evidence that: "securitization poses the lowest general cost to customers". He further stated at pages 117-118 that "[s]ecuritization is commonly used in the United States for various costs, including extraordinary storm costs and costs related to the early retirement of generation assets".

NS Power is confident the record in this proceeding demonstrates that securitization will benefit customers by providing them with significant savings and that, of other potential options, it poses the lowest cost to customers. In order to assist the DOE in obtaining the comfort and confirmation it seeks, NS Power asks that the Board speak directly to this point, if it agrees.

With regard to the valuation of the coal assets and whether the costs of those assets are to be recovered through electricity rates, NS Power believes it has addressed this point in section 3.5 of its Closing Submissions and it has provided additional submissions in the foregoing in response to the DOE's Closing Submissions. NS Power has done so in order to assist the DOE in obtaining the comfort and confirmation it seeks and, as above, the Company asks that the Board also speak directly to this point, if it agrees.

While NS Power recognizes the reservations expressed by the DOE, it believes those reservations can be addressed through this regulatory process. One of the many benefits of a fulsome and transparent regulatory process such as this is that it can provide the DOE with additional information to inform its decision.

One final point that NS Power wishes to address and clarify is the DOE's statement in paragraph 92 that the Province would be "financially exposed to risk through NS Power's request for the province to backstop the securitization loan". For clarity, and as is consistent with Deputy Gatien's letter (Appendix 8F of the GRA), a securitization approach would not come at a cost to the Province and does not require the Province to backstop it.

Given the significant savings for customers that can be derived from securitization, NS Power remains of the view that securitization will be achievable and believes that this regulatory process can play a key role in addressing any remaining issues or concerns.

e) Labour costs

The DOE submits that NS Power has not clearly justified the need for the number of staff it forecasts for 2026. However, there is a substantive amount of evidence regarding NS Power's OM&G costs in general, and labour costs more specifically, on the record.

In particular, Appendix 7A of the GRA and the ScottMadden Benchmarking report both provide support for and justification of NS Power's proposed full-time employee count. Support is also provided in the information request responses to Doane Grant Thornton.

Having reviewed all of these materials and conducting their own analysis, Doane Grant Thornton, in their evidence, concluded the following at page 40 of their report:

> We have reviewed the operating expenses included in NS Power's 2024 Actuals, 2024CR, 2025 Budget, 2026 Forecast, and 2027 Forecast. Our procedures included performing analytical procedures with respect to financial information in the Company's records, investigating variances, and reviewing the methodology and assumptions used in the OM&G forecast for reasonableness. We also reviewed the benchmarking study against the Company's peers, as completed by ScottMadden…Based on our review, nothing has come to our attention to indicate that the 2026 and 2027 Forecast for operating expenses are unreasonable on an overall basis.

In addition to the foregoing, the Settlement Agreement, which includes the customer representatives' agreement to and support of the OM&G and labour cost levels, already embeds a significant reduction of $9 million in OM&G in each of 2026 and 2027 that the Parties accepted as part of the negotiated outcome. Labour expense represents a significant portion of OM&G expense, as a result a reduction to staffing levels will be necessary to achieve these savings. Not only is there substantive evidentiary support and justification for these costs on the record, but such evidence is unanimous and unrefuted.

f) Interest on deferred liabilities

The DOE submits that NS Power should be denied its true cost of financing represented by its Board-approved Weighted Average Cost of Capital (WACC) on the Securitization Deferral. The Company's WACC is the rate at which the Company's investments and operations are financed and therefore is the rate that should be used. NS Power addressed this in section 3.5.4 of its Closing Submissions. As provided there, NS Power submits that, if the deferral continues after 12 months from establishment, then the deferral balance (which will include both the depreciation and financing costs of the coal assets) should accrue carrying costs at NS Power's WACC.

At its core, this issue engages the regulatory compact. As a cost-of-service utility, NS Power is entitled to a reasonable opportunity to recover the prudently incurred costs required to provide service, including its true cost of financing. The Board-approved WACC is one of the mechanisms through which that principle is given effect.

Section 64AB of the PUA sets a manner in which interest must be calculated unless otherwise directed by the Board. The provision provides a benchmark to be used in the absence of evidence as to what the Company's financing costs may be. In this context, the Board has evidence and is being asked to determine NS Power's financing costs, which would be WACC. NS Power submits that the record supports NS Power receiving its WACC on regulatory deferrals and that, in this instance, a departure from that standard would undermine the regulatory compact and be inconsistent with section 45 of the PUA by not providing the Company with an opportunity to recover its costs of financing. Section 45 of the PUA provides that NS Power is entitled to earn annually such a return as the Board deems just and reasonable. As it is understood that WACC represents NS Power's financing costs, where that cost is known and approved by the Board, NS Power must be provided with the opportunity to collect it.

g) Cyber-attack

The DOE submission states:

> The evidence supports the conclusion that the cyber-attack drew internal resources. Even responding to customers reaching out about concerns with estimated bills or other issues arising as a direct result of the cyber-attack are not within the normal course of business for NS Power.[13]

In follow-up to this claim, the DOE asks the Board "…to recognize that it is entirely possible that ratepayers are being asked to bear at least indirect expenses of NS Power's cyber-attack and disallow a reasonable estimate of these costs".[14]

As publicly stated numerous times by NS Power's CEO, and in the Company's Direct Evidence,[15] opening statement,[16] and during cross-examination,[17] there are no costs associated with the cyber attack included in the GRA. This GRA was derived prior to the cyber-attack and has not been modified in any fashion to account for costs arising from the cyber-attack.

Responding to customer concerns and questions is normal course of business for NS Power's customer service personnel. The subject matter of those concerns and questions may vary from day-to-day, week-to-week, month-to-month, season-to-season, or year-to-year. What is relevant for this discussion, is that NS Power's revenue requirement includes the costs of maintaining an appropriate level of such personnel. That staffing level has not been impacted, altered, or affected by the cyber-attack. For this reason, it is not accurate to suggest customers are being asked to bear direct or indirect costs of the cyber-attack.

h) Rate Implementation

[13] DOE Closing Submissions, p 18, para 117.
[14] DOE Closing Submission, p 18, paragraph 118.
[15] Exhibit N-3, page 8 of 99.
[16] Exhibit N-40.
[17] Transcript, January 9, 2025, p 888, lines 7-14.

At paragraphs 119-123 of its submission, the DOE requests that “to the extent that any rate increase will not come into effect until NS Power can confirm to the Board’s satisfaction that ratepayers will not be liable to pay higher rates on their current energy consumption, and that any costs associated with delays to rate implementation be borne by shareholders”.

There is no basis to delay implementation of rates. The implementation of rate adjustments is something that NS Power has done and has experience doing regardless of whether it has the benefit of smart meters. Any remaining billing issues do not provide a barrier to rate implementation. Furthermore, such a delay would amount to a disallowance and there is no finding or even assertion of imprudence that would justify such a result.

Regardless, as provided in the January update in M12273, NS Power has continued to make progress in restoring customer billing capabilities. Smart-meter connectivity has been re-established for most customers. The first bills with data from smart meters reconnected to the billing system were issued on December 23, 2025 and, as of January 15, 2026, approximately half of NS Power’s meters were communicating with its billing system, with over 400,000 now having successfully delivered usage information to the NS Power systems. Combined with continued manual meter reading efforts, over 84 percent of customers are receiving actual reads on their bills in January 2026, enabling the ongoing collection of meter data needed to support accurate billing activity.

4.0 REPLY TO THE CLOSING SUBMISSION OF RENEWALL ENERGY INC.

NS Power understands REI to be requesting that the Board do two things:

1) Direct NS Power to ensure consistency and accuracy between the COS and the Open Access Transmission Tariff (OATT) calculations; and
2) Direct NS Power to establish more accurate fuel cost forecasts.

NS Power's Response:

1) OATT Calculations

NS Power applied the approved OATT and COS methodologies, as amended in the Settlement Agreement, to determine the proposed bundled and OATT charges. The transmission costs are allocated to the bundled rate classes based on class contribution to the three winter month peaks of January, February, and December (three coincident peaks, 3CP) whereas allocation of these costs to the open market transmission services of point-to-point and network are done on the basis of their contribution to the twelve calendar months (12CP).[18] The difference in approach to the allocation of transmission costs in these two markets was discussed and accepted by the intervenors to the 2005 OATT founding proceeding.[19]

NS Power offers the following points of clarification to REI.

[18] Please note that the COSS calculates class shares based on its total of 3CPs whereas OATT calculates service shares based on monthly average of its 12CPs. The shares based on total sums and monthly averages lead to the same results.
[19] Please refer to section 4, Allocation of OATT Revenue Requirement of the Consensus Proposal, and NSPI's Supplementary Evidence from May 6, 2005 accepted by the Board in its 2005 OATT Decision (NSUARB-NSPI-P-880 2005 NSUARB 50).

Perceived "technical issues"

The coincident factors of 91.7 percent (cell E13 of 'Trans – Fig 5-13' in SR-01 Attachment 11) and 78.6 percent (cell F24 of 'Exhibit 9a Annual' in SR-01 Attachment 02) are two different calculations serving two different purposes. Both calculations are consistent with the approved methodologies. The factor of 91.7 percent is correctly utilized. It serves the purpose of determining system non-coincident demand billing determinants on the basis of which the monthly $ per MW charges under the OATT are calculated such that application of the proposed OATT charges in $ per MW to the monthly billing determinants of MW demand yields OATT revenue requirement. The factor of 78.6 percent is not used directly in rate calculations. This metric is indicative of the measure of coincidence of a class's annual non-coincident demand with its annual demand coincident with the system peak.

"Minor issue in OATT Ancillary service revenue requirement"

REI has identified two inconsistencies in the displayed MW figures on the record of the 2026-2027 GRA proceeding. However, the figures, which are displayed incorrectly, pertain to side calculations in the "Summary Rates" tab of SR-01 Attachment 12 and SR-01 Attachment 14 which do not impact the proposed OATT rates. The hardcoded MW figures in the formulas in cells B27 and B29 of Attachments 12 and 14, which provide revenue requirements for the services of Load Following and Supplemental Reserve (10 Minute), have not been updated to align with those in tab "Anc Serv – Fig 6-8" of Attachments 11 and 13 which are used to calculate the proposed rates.

REI's perception of "Impact"

REI suggests that coincident factors and system peaks drive the transmission and ancillary service components of the OATT, and using the updated COSS would result in lower OATT costs per MW. This is false. As indicated above, the coincidence factors from 'Exhibit 9a Annual' are not relevant to the calculation of the OATT rates.

REI's "Suggested action/changes"

As demonstrated above, the proposed OATT rate calculations are accurate and consistent with the approved methodology. The OATT calculation process has been revised to better align with the COS through the COSS stakeholder consultation process conducted in 2024 and incorporated into the 2026-2027 GRA.[20]

Overall, it does not appear that REI is asking the Board to reject any aspect of the COS as proposed or that REI is challenging the OATT; however, it seems that REI is asking the Board to treat the COS as completely determinative of OATT inputs, rather than as a separate construct.

It is important to note that no complete COS will ever be fully mirrored in the calculation of OATT rates.[21] Further, in the future as outlined in the *More Access to Energy Act*, the Independent Energy System Operator of Nova Scotia (IESO Nova Scotia) will administer the OATT once relevant sections are proclaimed. It will be up to the IESO Nova Scotia to determine how it will incorporate the COS from market entities into the OATT structure.

Differences between COS and OATT inputs do not, in and of themselves, indicate errors or over-collection. NS Power continues to engage with REI through its established monthly check-ins and welcomes all further opportunity to walk through the OATT methodology and assumptions in greater detail and address any remaining questions on these points.

2) Accuracy of Fuel Cost Forecasts

REI suggests that the Board should direct NS Power to establish more accurate fuel cost forecasts.

NS Power submits that no such directive is warranted or necessary. The Plan of Administration (POA) outlines the approved process for forecasting of fuel and purchased power expenses. As the

[20] Please refer to the stakeholder presentation "2024 Generic COS Proceeding Mini Stakeholder Session – Bundled/Unbundled Markets" from October 3, 2024. Appendix 12A(3), section "Outstanding Question around OATT design from Session #8" on pages 249 – 253 and section "Proposed OATT Amendments" on pages 270 – 279.
[21] Please refer to the section "OATT Pricing foundation" of the presentation "Technical Conference No.8" on pages 204 to 210 of Appendix 12A(3) for discussion of inherent rate design differences between OATT and COSS.

Board is aware, NS Power is audited bi-annually by the Board-appointed Fuel Adjustment Mechanism (FAM) Auditor, Bates White. The Auditor specifically evaluates and opines on the Company's adherence with the POA. Further, as noted in the Company's closing submission, Bates White submitted evidence in this proceeding on behalf of Board Counsel and indicated that NS Power used reasonable methods and resources in its forecast of fuel and purchased power costs included in this GRA.[22]

[22] Exhibit N-35, Evidence of Bates White Consulting, December 2, 2025, pp 13-14.

5.0 REPLY TO THE CLOSING SUBMISSIONS OF THE CUSTOMER REPRESENTATIVES

NS Power provides the following reply to the closing submissions of the CA, SBA, IG, PHP, and MEUs (collectively, the Parties). The submissions reflect broad support for the Settlement Agreement and the process undertaken in this proceeding. In particular, the Parties:

- Confirm that the jurisprudence supports approval of the Settlement Agreement;
- Recognize the settlement process was thorough, allowing full opportunity to present positions with expert support;
- Support deferring consideration of the Minimum System Method to a separate proceeding with any changes being adopted post-2027;
- Endorse use of the Minimum System Method while noting critical failings of Synapse's recommendation to implement a 1.5 kW load carrying capacity adjustment at this time;
- Accept the Depreciation Study, as revised for the test years, incorporating principled adjustments to reduce depreciation expense;
- Support securitization of NS Power's thermal assets identified in the DDA and the establishment of a deferral account to take effect on the effective date of the requested 2026 rate adjustment; and
- Submit that the Board should not modify individual components of the Settlement Agreement.

Key themes raised in the closing submissions of the Parties that NS Power addresses in turn are:

1. Depreciation methodology;
2. Securitization timing and the requested Deferral; and
3. Scope of the PHP Deferral.

5.1 Depreciation Methodology

NS Power wishes only to respond to one item raised by the CA regarding depreciation methodology. The CA submits that NS Power should be directed to undertake a review of depreciation methodology with stakeholders and return to the Board before the next GRA with a report on any changes it proposes to apply to its approach.

Respectfully, the evidentiary record in this proceeding already provides a fulsome examination of the two principal calculation procedures (Equal Life Group (ELG) or Average Life Group (ALG)) that may be applied to determine depreciation expense. That record includes two expert reports, extensive graphical and quantitative analyses, citations to relevant authorities, detailed responses to Information Requests, and answers to undertakings. Moreover, as explained by the NS Power panel and Mr. Wiedmayer, the ELG calculation procedure is in the long-term financial interests of customers. NS Power submits that directing a further review would be unlikely to yield additional insight or a different outcome and would risk introducing additional process without further benefit.

The IG notes that a determination on whether to adopt the ELG or ALG methodology is better deferred until NS Power has the benefit of more actual aged data and the updated Integrated Resource Plan is finalized. Further, the IG is correct in noting that if another review of the depreciation study is undertaken in 2028 or 2029 (on a five-year cycle as previously directed by the Board), NS Power will have up to 20 years of actual data for most of its accounts, which will enhance the ability to test which methodology is most appropriate.[23] In addition, the updated Integrated Resource Plan currently being completed by IESO Nova Scotia will provide important system planning context and further inform the appropriate depreciation approach.

NS Power agrees with the IG that taken together, these developments make the methodological issue more appropriately addressed in the next depreciation study review.

[23] IG Closing submission, page 6, para 3.

5.2 Securitization

As noted above, all Parties are supportive of the securitization of NS Power's thermal assets as contemplated under the DDA and a deferral to take effect on the effective date of the 2026 requested rate adjustment. Like the IG, NS Power remains hopeful that the Province will proclaim section 35G of the PUA and enact the necessary regulations to allow securitization to proceed to the benefit of ratepayers of up to approximately $85 million during the 2026-2027 period.

Given the history and work completed to get to this stage, NS Power agrees with the IG's submission that the Board may see value in confirming the potential benefits of securitization to ratepayers, while recognizing that a more detailed review will occur when the formal securitization application is filed.

NS Power further notes that, as the IG observes, Section 21 of the PUA grants the Board broad authority to make recommendations regarding any change in law relating directly or indirectly to the property or operations of a public utility, whether proposed by the utility itself or by the Minister.[24] In this case, Bill 404 has been enacted with an amendment to one of the Board's home statutes: section 35G of the PUA. Though this section has not yet been proclaimed, its passage is publicly known. As such, in NS Power's submission, the Board may take the amendment into account and assess its impact on utility operations and public interests, consistent with its statutory mandate, even absent a formal submission by the Minister.

Timing of Securitization

The CA notes that it is unclear, based on the comment of the Minister of Energy, whether securitization has been delayed or if it's in fact unlikely to proceed, and refers to NS Power's prior statement that it would amend the current GRA and return its thermal assets to rate base if securitization is not possible.[25] The CA notes the materiality of the impact on rates of any such

[24] IG Closing submissions, page 11-12.
[25] CA Closing submissions, page 10, lines 9-10.

amendment and reserves its position on any further application to amend the GRA before the Board.[26] When NS Power made that statement, it did so on the expectation that clarity on the availability of securitization would be available prior to the hearing in January 2026.

Considering the continuing uncertainty and current timing, it would not be practical to amend the GRA at this juncture. NS Power submits that the Securitization Deferral requested is the right tool for such a circumstance. This approach brings predictability and consistency for customers by not changing the relief sought. The Securitization Deferral allows for the issue to be addressed (with the benefit of greater certainty), if necessary, in the next GRA or in a subsequent proceeding, rather than through an amendment to the current application.

Securitization Deferral

None of the settling Parties object to the establishment of a securitization deferral account (Securitization Deferral) to take effect on the effective date of the 2026 requested rate adjustment. The IG, SBA, and PHP submit that the Securitization Deferral should not begin January 1, 2026.

The SBA notes:

> 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, and approving a deferral prior to those rates being changed to exclude those costs risks NSPI over collecting.[27]

The IG notes:

> The Industrial Group does not oppose a deferral account to address unanticipated delays in implementing the securitization mechanism. However, any such account should not take effect before new rates come into force. It should only operate on a prospective basis when new rates are effective until such time as enabling regulations and Board approvals are in place.
>
> A prospective deferral account appropriately balances the need to track legitimate costs arising from securitization delays against the long-standing principle that deferral accounts should not be created retroactively. It also prevents any potential double recovery of amounts already embedded in rates for depreciation of the DDA

[26] CA Closing submissions, page 10, 12-14.
[27] SBA Closing Submissions, page 7, lines 25-28.

> assets. Finally, by limiting the deferral period to when the section of the Public Utilities Act and enabling regulations are in force, this incents NSPI to apply for recovery of securitization debt through a rider or otherwise, without delay.[28]

PHP notes:

> If NS Power's proposed rates were, in fact, approved effective January 1, 2026, the costs of the assets to be securitized would have been removed from the revenue requirements used to establish NS Power's new general rates as of that date. In such circumstances, there would be no issue with NS Power's proposal to defer the depreciation expense and financing costs of the assets to be securitized effective as of the same date. This is because there would be no mismatch or overlap between the costs used in establishing prior rates and the costs to be deferred for securitization going forward. However, it is now clear that NS Power's proposed general rates will come into effect some time after January 1, 2026. Yet NS Power has confirmed it is still requesting that the Board approve the deferral of depreciation expense and financing costs of the assets to be securitized from January 1, 2026, and not from the date that new rates are going to be in place… This would result in customers paying more than if securitization was never put forward as a concept in the first place.[29]

While NS Power acknowledges and respects the position of the customer representatives that the Securitization Deferral ought to take effect on the effective date of the 2026 requested rate adjustment, rather than on January 1, 2026, NS Power reiterates its request that the Deferral begin on January 1, 2026. With respect, any and all concerns regarding overcollection or double recovery are unwarranted for the following reasons:

- First, the current rates are based on a revenue requirement developed in a prior test year using forecasts that predate these circumstances. Attempting to retroactively attribute specific current costs to that framework would be artificial and unreliable;
- Second, rates were capped in 2023 and 2024, with the result that the Company's full revenue requirement was not funded and therefore these costs have not been recovered;

[28] IG Closing Submissions, p 12.
[29] PHP Closing Submissions, p 7.

- Third, in recent years the Company has consistently earned below its allowed return on equity, further confirming that incremental costs of this nature are not being absorbed through existing rates;
- Fourth, the Company is already bearing significant unrecovered costs in the period between January 1 and the issuance of the Board's decision in this proceeding – a period that coincides with peak winter sales and system stress. That burden should not be compounded by requiring the Company to absorb additional costs associated with an initiative that has broad stakeholder support, is plainly in customers' long-term interest, and whose timing is largely outside the Company's control; and
- Fifth, the presence of the earnings cap requiring that anything recovered over 9.25 percent is returned to customers through the FAM provides a safeguard in the, highly unlikely, scenario where earnings reached that level as a result of a January 1, 2026 deferral effective date.

5.3 Treatment of PHP and the PHP Deferral

The PHP Deferral account is a targeted and necessary mechanism to address potential revenue variances arising from differences between the Board-approved tariff(s) under which PHP will take service in 2026 and 2027 and the assumptions reflected in the GRA COSS. As described in the Settlement Agreement, PHP has been treated as an above-the-line (ATL) customer in the 2026-2027 COSS, and the forecast impact of that treatment on all ATL classes is fully incorporated. The establishment of the PHP Deferral does not expand the scope of costs or introduce open-ended exposure for other customers, rather it provides a means to address contingent, tariff-related variances, both positive and negative.

The CA notes the significant uncertainty regarding the status of PHP, including PHP's position on the application filed in M12661. The CA states that if PHP were to remain below-the-line (BTL), NS Power estimates approximately $18 million dollars will accumulate in a deferral account and be charged to other customers.[30] The IG also raised the issue that the PHP Deferral would capture costs and revenues beyond what was agreed to or is reasonable.[31] NS Power disagrees. It is important to recognize that the approximately $18 million reduction in revenue requirement

[30] Exhibit N-74, Undertaking 2.
[31] IG Closing submissions, page 10.

reflects the Parties agreement, pursuant to the terms of settlement, to model PHP as an ATL customer in the GRA forecast which means that PHP is assigned those costs. Had PHP remained BTL, that $18 million in costs that would not be paid by PHP, would have been assigned to FAM customers and would be reflected in higher rates for all FAM customer classes. Against that backdrop, modelling PHP ATL was reasonably agreed to, and the PHP Deferral represents a balanced approach to addressing the material uncertainty regarding PHP's successor tariff in the development of this GRA. The Deferral avoids embedding potentially temporary costs in rates until the Board has determined PHP's successor tariff, and PHP's consumption over the 2026 and 2027 period is known.

With respect to the IG's concern regarding scope, NS Power confirms that it does not intend to expand the PHP Deferral beyond the costs and circumstances contemplated in this GRA and the Settlement Agreement which includes all material variances.[32] Regarding material variances, NS Power confirms that production from the Goose Harbour Lake Wind Project is directly linked to PHP's service under an ATL tariff and is therefore a necessary and specific element to be incorporated within the Deferral, rather than a general expansion of the scope. To be clear, under the PHP Power Sales Agreement issued by the Minister pursuant to Section 4AA (now section 24) of the *Electricity Act*, the timing and volume of energy produced by the Goose Harbour Lake Wind Farm during 2026 and 2027 will have a material effect on revenue recovered from PHP under the Board-approved tariffs and fuel costs to be recovered from customers during 2026 and 2027. Therefore, any load deviation caused by Goose Harbour Lake Wind Farm's actual production compared to the assumptions built into the ATL treatment of PHP assumed in the GRA is an appropriate element of the PHP Deferral.

As highlighted in NS Power's closing submission, Bates White agreed that the proposed PHP Deferral appears to be a reasonable mechanism for reconciling any deviations in revenues from expectations.[33] Further, and lastly, the amount to be deferred and associated recovery will be subject to Board and intervenor review in a future proceeding.[34]

[32] Transcript, January 8, 2026, page 592, lines 14 - page 593, line 1-19.
[33] Exhibit N-35, Bates White Evidence, pp 29-30, lines 18 – 1.
[34] Transcript, January 8, 2026, page 593, line 1-19.

6.0 CONCLUSION

NS Power repeats and relies on the evidence presented in this proceeding in support of the relief sought in the GRA. The evidentiary record reflects extensive analysis, expert input, and detailed scrutiny of NS Power's operations, planning assumptions, and cost drivers, developed over a lengthy and demanding process.

NS Power appreciates the opportunity to provide reply to the closing submissions of the intervenors and acknowledges the time, care, and effort invested by all parties in developing the record. The Board is tasked with weighing this evidence in an exceptionally challenging environment, marked by significant cost pressures on all sides, and heightened expectations around reliability, affordability, and the energy transition.

NS Power also emphasizes its ongoing commitment to transparent and constructive engagement with intervenors, the Board, and other stakeholders throughout the test period and beyond. That collaboration will continue as NS Power advances future planning initiatives and executes on the programs and capital investments identified in this proceeding.

NS Power thanks the Board for its careful consideration of the record and for its continued stewardship of an evidence-based regulatory framework grounded in relevant legislation and jurisprudence.