

May 27, 2026

dt_macleod@glenalpine.ca

David MacLeod
[REDACTED]

Dear Mr. MacLeod:

M12600 – Nova Scotia Power Incorporated – Cybersecurity Accountability – Request for Pre-approval of Intervenor Costs

This is in response to your letter to the Board on May 12, 2026, requesting the pre-approval of costs under *Rule 8* of the Board's *Costs Rules*. The request was limited to the pre-approval of out-of-pocket disbursements related to your participation in the proceeding, actually and reasonably incurred, and supported by receipts. These costs, which you estimated to be approximately \$3,500, were for travel, accommodation, meals, printing and copying, and couriers.

The Board invited comments from the other parties about your request. Aside from noting that the Board must be satisfied that you are eligible for non-profit intervenor costs under *Rule 9*, the Consumer Advocate and Small Business Advocate took no position in the matter. However, NS Power opposed your request.

NS Power took the position that the interest that you represented in this proceeding did not "constitute the kind of organized public interest or identifiable group interest the Cost Rules are intended to support." It also submitted that your interest overlaps with the Consumer Advocate, which is a factor to be considered under s. 10(1)(a). More generally, NS Power submitted that the issues you intended to raise were either not specific to your background, overlap the role and mandate of the Consumer Advocate, or were not within the scope of this proceeding.

Finally, NS Power argued there was no formal requirement for you to attend the hearing in person and that it was open to you to participate virtually. NS Power submitted that this would provide you with a full opportunity to provide testimony and otherwise participate in the proceeding without incurring costs, noting that ratepayers are ultimately responsible for these costs.

In your response to NS Power on May 25, 2026, you submitted that all of NS Power's objections were without merit and provided detailed arguments supporting this position.

The Board has considered your request, NS Power's objections and your responses. In the circumstances, the Board declines to direct that costs be paid to you by NS Power for the disbursement you identified.

While the Board appreciates the detailed points addressed by both you and NS Power about your eligibility to recover the requested costs, the Board does not consider it necessary to address these arguments. The Board finds these costs are avoidable given the option that is open to you to participate in this proceeding virtually.

In proceedings under the *Public Utilities Act*, the Board is exercising a regulatory function. In doing so, it must balance many interests, including the desire to have an appropriate record before it in the context of the decision the Board must make while balancing procedural fairness and the efficiency and effectiveness of the regulatory proceeding itself. The Board is not a court and is not bound by the same detailed rules of civil procedure that courts typically follow.

Board proceedings are open to the public and, in many cases, alternative participatory options are available to members of the public to contribute to the Board's decision-making process. These range from opportunities to provide brief remarks during public hearings, to submit letters of comment or to seek to become a party in a proceeding by requesting Intervenor Status.

Regarding requests for costs, the Board must also consider the reasonableness and necessity of expending ratepayer funds for this purpose, taking into account the existence of ratepayer-funded advocates (the Consumer Advocate and Small Business Advocate).

In-person attendance is not an absolute procedural right in Board proceedings. In many cases, matters before the Board may be appropriately determined without an actual in-person hearing at all. Even in instances when oral hearings are held, the Board has considerable experience dealing with virtual and hybrid proceedings. This experience has demonstrated that virtual processes can facilitate access and participation in Board proceedings and reduce costs.

The Board is not satisfied that you have demonstrated that the regulatory process in this matter requires your attendance in person. Your submissions rest, in part, on the presumption that virtual cross-examination of witnesses is an inferior procedural right. The Board does not accept, based on its experience, that the virtual cross-examination of witnesses is necessarily inferior to in-person cross-examination. It has become routine for many witnesses in regulatory proceedings to be cross-examined virtually. In many instances, this includes technical expert evidence and avoids the cost of having expert witnesses travel to and attend Board proceedings and hearings, thereby reducing costs for parties and ratepayers. Based on this experience, it is clear that virtual cross-examination has and can be conducted quite effectively.

Regarding access to and the use of exhibits, these are all routinely filed electronically in Board proceedings and, typically, are presented on screen (both virtually and in the hearing room) during witness examinations. The Board's proceedings revolve around electronic document production and display. The Board is not persuaded that in-person attendance is necessary for the effective management of exhibits in Board proceedings.

The Board recognizes that technology is not infallible and sometimes issues arise. Given the routine integration of virtual participation in its in-person proceedings, the Board has processes in place to address these issues if and when they occur. The Board also offers parties in proceedings the ability to arrange for a demonstration of its virtual platform in advance to ensure that the participants are familiar with its systems and to address any technical issues before the hearing.

To conclude, the Board's experience with virtual document display in proceedings both before and after the Covid-19 pandemic has demonstrated that virtual processes work well



and have been used to help to reduce the costs of proceedings for the benefit of participants and ratepayers. The Board is not satisfied that you have demonstrated that you cannot participate meaningfully in this proceeding in a virtual fashion.

The Board would encourage you to make arrangements with the Clerk of the Board for a familiarization session on the Board's virtual platform.

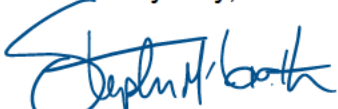
Regarding your request for costs associated with printing, copying and couriers, the Board's processes use electronic document production and display. Unless otherwise specifically required by the Board, you may file whatever evidence or submissions you wish to present to the Board electronically through the Board's online portal, thereby avoiding such costs. Once again, if you have any difficulty with the use of these systems, you may contact the Clerk of the Board, who will assist you.

As noted above, the Board's decision on your request for costs is based on the foregoing. However, the Board wishes to take this opportunity to address an issue stemming from your submissions in response to NS Power's objections. In Item 3B of your submissions, dated May 25, 2026, you describe the Board's mandate in this proceeding as assessing:

- a. The adequacy of NS Power's cybersecurity policies, practices and controls prior to the breach;
- b. The reasonableness of NS Power's detection and response to the breach; and
- c. The appropriateness of NS Power's remedial measures and future preparedness.

Those issues are intended to be addressed in Matter M12273 and closely resemble the issues the Board identified for that proceeding identified on page 2 of the Board's letter of February 6, 2026. In respect of the issues you identified on the top of page 6 of your submissions, the Board considers "Issue 2" to be in scope in this proceeding (SIN retention); however, "Issue 1" (NCTA alignment) and "Issue 3" (detection latency) appear to be more closely aligned with the scope of Matter M12273. As noted in the Board's recent letter addressing NS Power's objections over the scope of Information Requests in this proceeding, there will be another opportunity for you to seek to intervene in that proceeding if you wish to do so.

Yours very truly,



Stephen T. McGrath, K.C.
Chair



Roland A. Deveau, K.C.
Vice Chair



Richard J. Melanson, LL.B.
Member

- c. William L. Mahody, K.C., Board Counsel
Interested Parties

