Nova Scotia POWER
An Emera Company

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March 23, 2026

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

Re: M12600 - An inquiry about the impact of the cyber incident on Nova Scotia Power Incorporated's collection and retention of customer information, customer service and communications, billing processes and regulatory matters.

Dear Ms. Henwood:

Nova Scotia Power Incorporated (NS Power, Company) provides the following comments on the M12600 Preliminary Issues List provided by the Nova Scotia Energy Board (Board) on March 12, 2026. These comments are intended to assist the Board in efficiently advancing the regulatory process while fulfilling its mandate.

NS Power provides the following comments on the first seven issues of the Preliminary Issues List:

<u>Issues</u>

(1) Privacy policies and procedures development, implementation, and adherence, including, but not limited to:

- (i) Privacy training and percentage of staff that completed privacy training;
- (ii) Policies for receiving and responding to privacy complaints or inquiries;
- (iii) Privacy breach response plan;
- (iv) Retention and destruction policies.

(2) Governance and risk management processes addressing privacy risks.

(3) Privacy violation detection, and measures implemented to contain the breach.

(4) Reporting to regulators, notification to affected individuals, management and communication.

(5) Collection and retention of customer information (including what type of personal information was collected, for what purpose).

(6) Measures implemented to mitigate risk to customers from fraud and identity theft following the cybersecurity incident .

(7) Whether any third-party service providers were involved in the breach and if yes, whether there were data sharing agreements in place with them.

Comment

NS Power recognizes and respects the Board's mandate under the *Public Utilities Act*, and assumes that any consideration of the six privacy-related issues (Issues 1-6) would be appropriately undertaken within the scope of that statutory context. At the same time, NS Power notes that broader questions relating to privacy compliance and interpretation fall squarely within the specialized expertise and jurisdiction of the Office of the Privacy Commissioner of Canada (OPC).

The OPC serves as the primary regulator for private-sector privacy matters in Canadian provinces and territories that do not have legislation deemed "substantially similar" to the federal *Personal Information Protection and Electronic Documents Act* (PIPEDA).

Nova Scotia has adopted the *Freedom of Information and Protection of Privacy Act (FOIPOP);* however, FOIPIP only applies to public bodies and as such has not been deemed substantially similar to PIPEDA, meaning that NS Power is subject to the requirements under PIPEDA.

Notwithstanding the federal jurisdiction of the OPC, itoften consults with Provincial privacy regulators and, in fact, did so in this case as noted in the May 28, 2025, "Statement by the Privacy Commissioner of Canada regarding the data breach at Nova Scotia Power".

The complaints received by the OPC about NS Power currently under investigation include:

- Complaints regarding the breach of security safeguards;
- Complaints related to NS Power's collection and retention of Social Insurance Numbers; and

- Complaints related to the amount of time that NS Power took to notify affected individuals, and in particular that the notification letters were sent by regular mail, which delayed delivery of the notifications.

In the course of an investigation of a complaint, the Commissioner assesses an organization's compliance with the "fair information principles" set out in the PIPEDA. These include accountability (including requirements to have appropriate privacy policies, procedures, and training for same), openness, limiting use, safeguards (including compliance with PIPEDA's breach reporting requirements), retention, and complaint handling mechanisms.

The Province has also taken steps to address certain customer privacy concerns. In particular, the legislature enacted the *Social Insurance Number Protection Act* (SIN Act) which received Royal Assent on October 3, 2025. This statute makes it illegal, in the course of commercial activities, to request or collect an individual's Social Insurance Number unless the collection is required by law or permitted by regulation.

In light of the foregoing, in NS Power's respectful submission, the matters identified in Issues 1 through 6 are most appropriately considered and addressed by the OPC, which possesses specialized and extensive expertise in privacy law and data incidents, and is specifically mandated to oversee compliance with PIPEDA. The OPC is presently exercising this mandate through its ongoing investigation of NS Power in connection with the incident, and NS Power has been fully collaborating with the OPC during this process. Given the OPC's subject-matter expertise, its active engagement with these very issues, and the comprehensive statutory framework already governing these matters under PIPEDA—complemented by recent provincial enhancements under the SIN Act—NS Power respectfully submits that the Board should defer to the federal privacy oversight regime on Issues 1 through 6. In these circumstances, there is no regulatory gap requiring further review, directive, or order from the Nova Scotia Energy Board in respect of these issues.

NS Power remains committed to complying with all applicable privacy obligations and will continue to work with the OPC to resolve these issues.

Issues within Scope of M12273

Furthermore, with respect to Issue 3, NS Power notes that issues relating to NS Power's measures to detect a "privacy breach", and the measures implemented to contain the incident (a sophisticated ransomware attack) have been designated by the Board as within the scope of M12273, which further to the Board's February 6, 2026 correspondence, is being conducted as a separate proceeding. Issue 7 similarly falls within the scope of the M12273 proceeding. As the Board notes in its February 6, 2026 correspondence, "there is merit to separating the more technical aspects of the cybersecurity incident" from the matters under consideration in M12600. The matters noted in Issues 3 and 7 are currently under review by MNP Digital, who has been engaged by the Board to assist in reviewing these matters. Accordingly, these issues are currently being addressed in a separate proceeding before the Board with the assistance of experts, and there is no gap requiring further concurrent reviewing of these measures in a parallel proceeding under M12600. NS Power continues to cooperate with the Board with respect to M12273 to ensure these issues are addressed.

Concluding Remarks

NS Power thanks the Board for the opportunity to provide these comments and remains committed to continuing to rebuild and maintain the trust of its customers.

Yours truly,

Blake Williams
Vice President Legal & Regulatory Affairs