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Via Electronic Mail

Crystal Henwood
Regulatory Affairs Officer/Clerk
Nova Scotia Energy Board
3rd Floor, 1601 Lower Water Street
PO Box 1692, Unit "M"
Halifax NS B3J 3S3

Dear Ms. Henwood:

Re: M12661 – NSPI - ELID Above-the-Line Tariff Application available to PHP

When the Board issued its timetable, it included a deadline by which parties could request the current written process be converted to an oral hearing. The Industrial Group respectfully requests that the Board do so.

This tariff proceeding is better suited to an oral hearing for several reasons, including that:

- NSPI and PHP have not filed a Consensus Proposal for the new Tariff, and there are numerous competing expert opinions;
- The record raises credibility and factual disputes that cannot be fairly resolved through a written record;
- The proceeding raises complex and novel issues that require further clarification through oral examination; and,
- The record before the Board is complex and any outcome will have a material impact on costs borne by all ratepayers, not just PHP.

1. No Consensus Proposal and Competing Expert Opinions

The GRA Settlement Agreement was understood by parties to contemplate a collaboratively developed ELID tariff to be filed and in place by January 1, 2027. Instead, there is no consensus proposal before the Board. NSPI and PHP have filed competing positions on material elements of the proposed tariff, including the demand determinants, the revenue-to-cost ratio, the structure and value of the Dispatchable Rider ("**DR**") credit, and the value of the Interruptible Rider ("**IR**") credit. Rather than a jointly supported application, the Board has before it a utility application and a customer counterproposal backed by a separate expert consultant, with each side asking the Board to reject the other's fundamental premises.

Into that record, the Board's own independent consultants, Bates White Economic Consulting ("**Bates White**") and Synapse Energy Economics ("**Synapse**"), have filed evidence that critiques both NSPI's application and aspects of PHP's counterproposals, while themselves reaching different conclusions on several issues. The Industrial Group's consultant, Mr. Patrick Bowman of Bowman Economic Consulting Inc. ("**Bowman**"), has similarly identified significant structural deficiencies in the proposed tariff and advanced independent recommendations. The Consumer Advocate's consultant, InterGroup Consultants ("**InterGroup**"), has taken additional positions on the interruptible credit and revenue-to-cost ratio.

The Board has been presented with at least five distinct expert perspectives on a tariff that is without a comparable precedent in Canadian utility regulation (other than self-reference to the current below-the-line ELIADC, which has been the subject of its own revisions and criticisms). This is precisely the situation that oral examination exists to address.

While the Information Requests in this proceeding are lengthy, they often lead to additional questions, rather than resolving the outstanding issues. Without oral examination, the Board will be required to choose among materially different expert positions without the benefit of fully testing the assumptions, methodologies, and facts underlying those positions.

2. Credibility and Factual Disputes Cannot Be Fairly Resolved on the Written Record

Several of the disputes on the record are not merely differences of regulatory philosophy; they rest on contested factual representations and underlying assumptions that require cross-examination.

The demand determinant is the clearest example. NSPI proposes 65 MW, based on PHP's historical 3-CP demand as dispatched by NSPI in 2022 and 2023.[1] PHP proposes 8 MW, representing only its firm load.[2] Bowman recommends 120 MW based on PHP's average annual demand, a methodology consistent with the premise that PHP is being priced as an above-the-line customer.[3] The Board's consultant, Synapse, disagrees with PHP's 8 MW proposal on the basis that it would understate PHP's contribution to system costs, particularly transmission costs, and shift costs to other customers.[4] The demand figure ultimately approved will directly determine how much of NSPI's production and transmission capacity costs are allocated to PHP and how much is absorbed by other customer classes. The written record presents these positions in parallel but provides no mechanism by which the Board or any party can test the foundations of the competing figures, including whether the historical dispatch patterns relied upon by NSPI are representative of what PHP's demand will be during the tariff period, or whether Bowman's average demand methodology can instead be used for this unique tariff structure.

A second example of contested issues that require oral testimony involves the DR credit and the Customer Baseline Load ("**CBL**") against which PHP's load-shifting activities will be measured. Bowman's evidence raises a specific concern: there is experience in Nova Scotia of CBL-type calculations overvaluing the contribution of dispatchable load, and the proposed CBL assumes PHP would operate at a high load factor absent the DR, which may not reflect PHP's actual default

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1 N-1, NSPI Application, page 6; Exhibit N-38 (NSPI Reply Evidence), page 8.

2 N-2, Evidence of C. Fitzhenry and M. Gorman, page 2-3; N-36 (BAI Reply Evidence), page 2.

3 N-25, Evidence of P. Bowman, page 4.

4 N-21, Synapse/Whited Evidence, page 3.

operating profile.[5] NSPI and PHP both assert the mechanism is appropriate, but Bates White concludes the DR credit as proposed is "too vague, uncertain, unverifiable, and at risk of failing to match rider payments to load-shifting service to be recommendable for approval."[6] When PHP asked Bates White to identify the additional guardrails that would satisfy its concerns, Bates White did not advance any clear alternative mechanism.[7] The Board is accordingly left with competing characterizations of whether the DR as designed will actually track real load-shifting value, and no opportunity in a written proceeding, to question the witnesses about the operational realities that underlie those characterizations or to tease out alternatives.

A third key factual dispute relates to the Goose Harbour Lake Wind Farm output assumptions and their impact on PHP's net load. Bates White has identified that NSPI's application used a planned facility capacity of 130.5 MW, while the reported planned capacity is 168 MW, and concluded that there is a plausible scenario in which PHP's annual net load subject to the Energy Charge could be zero, which means PHP would pay no Energy Charge at all and cover none of the embedded costs reflected in that charge.[8] PHP disputes the Bates White output calculations and the underlying assumptions, including the appropriate P90 values and how wind output scales with interconnection capacity.[9]

A fourth significant factual dispute relates to the proposed Interruptible Rider credit: whether PHP is, in practice, available to be interrupted at all and if so, the value. NSPI proposes to apply the standard Large Industrial interruptible credit of $7.638/kVA in 2026 and $7.667/kVA in 2027, plus a 10% Priority Interruptible premium, on the basis that these values were established in the GRA Settlement Agreement.[10] PHP proposes a materially higher credit of $13.107/kVA, reflecting the full avoided marginal cost of peaking capacity.[11] In contrast to both, Bowman's evidence takes a fundamentally different position given that PHP is, in practice, almost never available to be interrupted because its load will already have been dispatched down under the DR before any interruption call arises, and he opines there should be little to no value in the IR credit at all.[12] The resolution of this dispute turns directly on factual questions about PHP's historical and expected operational profile, the reliability of dispatch data, and the relationship between the DR and IR mechanisms. These are questions that are not amenable to resolution solely through written submissions and that require cross examination of the witnesses who have advanced these competing positions.

Finally, and distinct from the above issues, within NSPI's Reply Evidence, a new methodology to quantify the value of Active Demand Control ("**ADC**") has been raised, which may impact how the ELID Tariff will operate in practice. At page 23 of the NSPI Reply "Evidence,"[13] NSPI confirmed that during a Q2 2026 Fuel Adjustment Mechanism Small Working Group meeting (and discussed

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5 N-25, Evidence of P. Bowman, pages 11-12.

6 N-20, Bates White Evidence, page 8, lines 3-4.

7 N-26, BW (PHP) RIR-2; and N-31, BW (IG) RIR-7(b).

8 N-20, Bates White Evidence, pages 15-16, and 33.

9 N-37, PHP Reply Evidence, pages 3-4.

10 N-1, NSPI ELID Application, pages 8-9.

11 N-2, Evidence of C. Fitzhenry and M. Gorman, page 12; and N-36, BAI Reply Evidence, page 2-4

12 N-25, Evidence of P. Bowman, pages 13-14, Recommendation 4.

13 N-38, NSPI Reply Evidence, page 23, lines 15-19.

confidentially), a new methodology to quantify the value of the ADC mechanism was discussed which involves "valuing load shifting isolated from changing prices." NSPI states this methodology was developed in accordance with Recommendation XV-3 from the 2022–2023 FAM Audit and that it will be subject to FAM Small Working Group review and, subject to Board approval of the ELID Tariff, future FAM Audits. The methodology for quantifying load-shifting value is central to the operation of the DR credit payable by all above-the-line customers to PHP and the expert evidence filed assesses the DR credit on the assumptions of the existing ADC valuation methodology. The introduction of a different methodology at this stage means the evidentiary foundation upon which all parties have taken their positions may no longer reflect how the DR credit will actually be administered.

Where this approach has been raised for the first time now, after the close of the Information Request process, this leaves Intervenors no opportunity to meaningfully examine it, test how it differs from the existing approach, or assess its financial implications for ATL ratepayers. Regardless of whether NSPI is seeking Board approval of the methodology in this proceeding, the Board and Intervenors need to understand the methodology that will govern the credit's calculation in assessing the reasonableness of the DR credit mechanism as proposed.

These are only a few examples of significant issues outstanding on the record.

3. The Complexity and Novelty of the Proposed Tariff Require an Oral Hearing

Bowman's evidence notes that the proposed ELID rate is "complicated and unusual in utility rate regulation" and that "[n]o comparable rate could be identified in Canada, particularly for a major customer on a regulated utility system."[14] The tariff combines an above-the-line cost-of-service framework with an after-the-fact production cost simulation for the DR credit, an Interruptible Rider with a demand credit, a Priority Interruptible credit, and the layered settlement of a ministerially approved Power Purchase Agreement and Power Sales Agreement with a wind facility which had not yet commenced operation. The interactions between these mechanisms are not straightforward, and their combined effect on cost recovery, including the risk identified by Bates White that PHP could in some years pay no Energy Charge whatsoever, has material consequences for all ratepayers.

PHP accounts for up to 25% of total system load in Nova Scotia.[15] The Board has before it a genuinely novel tariff for the largest single customer on the NSPI system, in a proceeding where NSPI and PHP have not reached agreement, and where the Board's own consultants have raised concerns that have not been resolved. Given the real potential financial consequences for all ratepayers, the Industrial Group submits that the matter should be converted to an oral proceeding.

Conclusion and Request

The Industrial Group submits that the current written record does not give the Board, or Intervenors, the adequate tools needed to resolve the outstanding disputes with confidence or clarity. While paper processes have their place where there are no factual disputes and written arguments afford sufficient procedural fairness, that is not the case here. An oral hearing would

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[14] N-25, Evidence of P. Bowman, page 3, lines 27-28.

[15] N-21, Synapse/Whited Evidence, page 4.

allow the Board and the parties to test the underlying assumptions of the evidence filed, challenge the credibility of contested factual representations, and arrive at a decision grounded in a fuller examination of the record than written submissions alone can achieve.

For these reasons, the Industrial Group respectfully requests that the Board convert this Proceeding to an oral hearing. The Industrial Group is prepared to work cooperatively with the Board and all other parties to establish a hearing schedule that is practicable and efficient.

Yours Truly,

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Brianne E. Rudderham

NGR/BER/cj

c. Participants in M12661