

East Coast Environmental Law
6061 University Ave. PO Box 15000
Halifax, NS B3H 4R2

Nova Scotia Energy Board
1601 Lower Water St. 3rd Floor
Halifax, NS B3J 3P6

April 23, 2026

Dear Mr. Chair and Panel Members,

Re: Letter of Comment in Matter No. M12663: Nova Scotia Independent Energy System Operator (IESO Nova Scotia) – 2026-2027 Revenue Requirement and Fees Application

East Coast Environmental Law (“ECEL”) appreciates the opportunity to submit this letter of comment for the Board’s consideration in the above-noted Matter. We did not have the capacity to intervene in this Matter, but we are following it with interest.

As the Board is aware, ECEL is a regional charity that provides public-interest environmental law services throughout Atlantic Canada, including advocacy for progressive environmental law and policy, public legal education on environmental law topics, and support to others who are working to advance environmental and climate justice. Since the establishment of the Board’s responsibility under subsection 6(2) of the *Energy and Regulatory Boards Act* to consider sustainable development and sustainable prosperity when exercising its regulatory authority, we have looked for opportunities to engage in Board matters and encourage purposive and meaningful applications of this sustainability mandate.

In recent months, we have received inquiries from individual community members, community groups, and environmental organizations in Nova Scotia concerning the procurement process that the Nova Scotia Independent Energy System Operator (“NS IESO”) initiated in autumn 2025 to seek the construction of one or two fast-acting power generation facilities in Pictou County. The NS IESO issued an initial Request for Expressions of Interest in October 2025, and it is expected to issue a formal Request for Proposals (“RFP”) soon. To facilitate the development of one or both potential projects, the NS IESO also registered two project proposals for provincial environmental assessment and federal impact assessment in December 2025: the provincial assessments concluded with approvals from the Minister of Environment and Climate Change in February 2026, and the federal assessments are currently in suspension at the request of the NS IESO. Based on draft materials shared for review on the NS IESO website, it is evident that the NS IESO intends to enter into one or more tolling agreements with the successful proponent(s) following the RFP.

Within the language of the *More Access to Energy Act*, any tolling agreement established following the RFP will be an energy resource supply contract, the costs of which are recoverable from ratepayers upon application to the Board under section 30 of the Act.

The inquiries that ECEL has received from concerned community members and environmental organizations regarding the proposed power generation facilities have included questions about the regulatory requirements that govern energy resource procurement decisions by the NS IESO and corresponding requirements for Board assessment and approval of such decisions.

The NS IESO's application in this Matter includes procurement costs, some of which include the costs of managing the forthcoming RFP; the application also includes language anticipating a future application or applications to recover the costs of the energy resource supply contract(s) that the NS IESO intends to establish following the RFP:

As a result of IESO Nova Scotia's mandate and associated work already completed (specifically with respect to Phase 1) and to be completed in the years ahead, IESO Nova Scotia has incurred and expects to incur costs beyond OM&A. Namely, IESO Nova Scotia has incurred and will incur capital-related costs and expects to incur costs associated with future energy resource procurements. Accordingly, IESO Nova Scotia's revenue requirement and fees applications going forward will likely include for review and approval capital and energy resource procurement costs, as well as corresponding fees, assuming they have not otherwise been subject to NSEB review and approval via separate applications submitted to the Board. Any references to capital costs in this Application are not included for approval at this time. The regulatory pathways for NSEB review and approval of these additional cost categories will be assessed in further detail in 2026. [Exhibit N-1-(1), page 8, lines 17-26: emphasis added]

We recognize that the costs of energy resource supply contracts are not before the Board in this Matter and that the Board has not yet had the opportunity to determine what regulatory pathways should be followed when the NS IESO seeks to recover its energy resource supply costs. Nevertheless, in light of the above-noted comments by the NS IESO, as well as the significant community concern generated by the NS IESO's proposed fast-acting power generation facilities, we take this opportunity to note that there is significant public interest in the Board's oversight over energy resource procurement decisions by the NS IESO.

Subsections 30(1) and 30(2) of the *More Access to Energy Act* appear to be the only statutory provisions that explicitly contemplate Board oversight of energy resource procurement decisions by the NS IESO. They provide:

30(1) The IESO shall apply to the Energy Board for the recovery of costs for energy resource supply contracts, and any costs incurred by the IESO for the administration of those contracts, respecting settlements or payments under contracts for energy resources obtained through procurement activities or through reassignments of existing energy supply agreements from NSPI.

(2) The Energy Board shall establish a mechanism to recover the costs referred to in subsection (1) from ratepayers, and the public utilities connected to the IESO grid shall collect these amounts and remit them to the IESO.

Notably, these provisions require the Board to establish a cost-recovery mechanism to be used when the NS IESO applies to the Board for recovery under subsection 30(1). The components of and analyses informing the cost-recovery mechanism are not specified: ultimately, those considerations will need to be determined by the Board.

On the face of the relevant legislation, there appear to be significant differences between the regulatory requirements governing Board oversight of capital expenditures by public utilities in Nova Scotia and Board oversight of energy resource procurement decisions by the NS IESO. One could argue, however, that the *More Access to Energy Act* gives the Board considerable discretion to establish a fit-for-purpose cost-recovery mechanism for use in NS IESO applications under subsection 30(1). One could also argue that the public interest in ensuring a safe, secure, reliable, and economical energy supply in the province while supporting the sustainable development, sustainable prosperity, energy efficiency, and greenhouse gas emissions reduction goals of the province—an interest reflected in the stated purposes of the *More Access to Energy Act*—requires robust Board analysis of the justifications for energy resource procurement decisions by the NS IESO.

We trust that when the NS IESO is ready to propose a regulatory pathway / cost-recovery mechanism for use in applications under subsection 30(1) of the *More Access to Energy Act*, there will be ample opportunity for interested stakeholders and rightsholders to make submissions to inform the Board's determination, and we look forward to the opportunity to share our perspective more fully in that regard.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kostantina Northrup', with a stylized flourish at the end.

Kostantina Northrup
Staff Lawyer