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Delivered by E-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: M12663 – IESO-NS - 2026-27 Revenue Requirement and Fees Application

These submissions are filed on behalf of the Industrial Group in response to the IESO-NS's request for immediate relief for NSPI to remit $950,000 per month, exclusive of any applicable taxes, to the IESO-NS ("**Monthly Assessment**"). It is proposed that these amounts be recorded, deferred and recovered through NSPI's Fuel Adjustment Mechanism ("**FAM**").

The IESO-NS proposes these Monthly Assessments begin no later than April 1, 2026, retroactive to February 1, 2026, and continuing until March 31, 2027, or until a permanent fee mechanism is approved. The IESO-NS further asks that the Board deem the monthly payments a "prudent cost of NSPI" for FAM recovery.[1]

The Industrial Group opposes the relief sought, and focuses these submissions on the following:

1. The proposed use of the FAM is improper and contrary to its statutory purpose;
2. The mechanism shifts several material risks to ratepayers;
3. The proposed monthly assessment of approximately $950,000 is unsupported; and
4. Reasonable alternatives exist that avoid misusing the FAM and better align with legislative intent.

(1) The FAM cannot be used for Non-Fuel Bridge Financing

The statutory framework governing both the FAM and IESO-NS cost recovery mechanisms does not contemplate using the FAM to provide immediate, temporary funding from ratepayers.

The FAM is a statutory and highly structured mechanism designed for the recovery of NSPI's fuel and purchased-power costs. It is established under s. 64AB of the *Public Utilities Act* and has

[1] N-1 (i), IESO-NS 2026-2027 Revenue Requirement, Exhibit D-1, pages 41 and 43.

only three components: (1) the Base Cost of Fuel; (2) the Actual Adjustment; and (3) the Balancing Adjustment. NSPI is further entitled to earn its weighted average cost of capital ("**WACC**") on FAM deficits, as these balances reflect fuel-related regulatory assets.

The FAM Plan of Administration articulates "Allowable Fuel and Purchased-Power Costs" eligible for recovery through the FAM. Section 3.2 reads:

> *Allowable fuel expenses will include normal, recurring, non-capital expenses that have been prudently incurred. Discrepancies between the value of measured fuel quantities and the book value of each fuel may also be included if those discrepancies are reasonably supported through surveys, tank level readings and pipeline reports. Exceptional or nonrecurring costs appropriately classified as a fuel and purchased power cost will be brought to the attention of the Small Working Group for review for inclusion in the FAM.*

In only specific and limited circumstances has the Board authorized non-fuel and purchased power-related line items to flow through the FAM, such as administrative penalties for NSPI's failure to achieve performance standards and excess earnings. Administrative penalties are presumptively credited through the FAM by legislation,[2] as were excess earnings in the period 2015 – 2019.[3] More recently, in NSPI's application for approval of its 2020-2022 Base Cost of Fuel and revised AA/BA, the Board concluded it had jurisdiction to determine the disposition of excess earnings and directed over-earnings be applied to the FAM balance.[4] The discretion to dispose of earnings exceeding the approved range is preserved in the recent amendments to the *Public Utilities Act*.[5] Critically, in these limited circumstances they were *credits* to the FAM, not a *cost* to ratepayers.

In addition, the existing cost of service model classifies fuel costs as 100% energy-related and allocates fuel and purchased power costs to Above-the-Line ("**ATL**") FAM customers based on their relative contribution to the monthly energy requirement. Here, the IESO-NS's proposal to use the FAM would allocate operation and maintenance costs – not fuel and purchased power costs – and moreover, would allocate to only one subset of NSPI's customers: ATL FAM customers. This is a departure from cost-causation principles. It is axiomatic that the work being done by the IESO-NS, for which the Monthly Assessment is sought, benefits all customers who use the transmission system. Yet, IESO-NS offers no justification or rationale for FAM cost allocation which would exclude non-FAM customers and particularly Port Hawkesbury Paper, the province's single largest customer load. Such selective allocation is arbitrary and inconsistent with accepted rate making principles.

For amounts accrued in Q4 2025 and 2026, the FAM balance will be trued up intra-class and a new rider set in the 2027 FAM AA/BA proceedings. IESO-NS proposes that the Monthly Assessment continue through to March 2027. However, the Application is silent as to how the Monthly Assessment will be allocated inter-class and trued-up or ultimately reconciled with the

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[2] *Public Utilities Act*, RSNS 1989, c. 380, as amended, at s. 52E.

[3] *Electricity Plan Implementation (2015) Act*, SNS 2015, c 31, s.14.

[4] *Nova Scotia Power Incorporated (Re),* 2019 NSUARB 165, at paras 6, 83-129.

[5] *Public Utilities Act,* RSNS 1989, c. 380, as amended, s. 64C.

approved revenue requirement and the various sub-accounts in the Deferral and Variance Account.

The FAM does not, and should not, function as a general-purpose financing vehicle for NSPI or any third party. The IESO-NS's proposal bears no relationship to the FAM's purpose. The funds are intended for an entity entirely independent from NSPI and are not fuel or purchased power costs. The IESO-NS's evidence confirms the monthly remittance is a liquidity measure designed to keep IESO-NS "a going concern" pending approval of the 2025/2026 revenue requirement, the 2026/2027 revenue requirement, and the establishment of a permanent fee mechanism, still not yet confirmed or applied for.[6]

Embedding non-fuel bridge financing into the FAM account would contravene the governing statutes and set a troubling precedent by allowing non-fuel expenses, incurred by a separate entity, to flow through a mechanism intended for automatic and expedited pass-through to only ATL FAM ratepayers. The IESO-NS is effectively asking the Board to convert NSPI's fuel rider into a general-purpose deferral mechanism, enabling non-fuel costs to be recovered through a process and allocation mechanism expressly designed for contemporaneous reconciliation of fuel-related expenditures. Additionally, IESO-NS has asked that the fees be deemed prudent, an issue addressed further below.

It is even questionable if the Board has the power to grant the approval sought. The *More Access to Energy Act,* SNS 2024, c 2 *("**MAEA**")* created the IESO-NS and requires Board approval of the IESO-NS's proposed expenditure and revenue requirements <u>before</u> establishing any "fees" (s. 29). The MAEA is silent on the mechanism to recover those fees, from whom the fees are to be recovered and the allocation of those fees.[7] In requesting an order to direct NSPI to pay a Monthly Assessment, the IESO-NS is, effectively, requesting interim approval of its fees without directly addressing any of these considerations.

The Board is a creature of statute. Nothing in the *MAEA* gives the Board the power to grant interim approval of the IESO-NS's fees prior to review and approval in accordance with s. 29 of the *Act*. This stands in contrast to the explicit power under the *Public Utilities Act*. When a *public utility* applies for approval of "rates, tolls and charges" the Board may grant interim approval but only where the proposed change would reduce rates, or it is in respect of a service for which no rates, tolls or charges have been previously approved (s. 69(1)). That is not the case here. Fundamentally, the IESO-NS is not a public utility, nor is this a reduction and nor is it a rate, toll or charge to ratepayers.

The Industrial Group submits that the Board should reject the use of the FAM as a means of providing the IESO-NS with what amounts to an unsecured, ratepayer-funded loan, particularly when this would allow NSPI to earn its WACC on the principal. Allowing such treatment would erode the distinctive nature of the FAM, undermine the separation and independence between NSPI and IESO-NS, and expose customers to inappropriate and avoidable financial risks.

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6 N-1 (i), IESO-NS 2026-2027 Revenue Requirement, Exhibit A-1, page 3 lines 11-14; and Exhibit D-1, page 42, lines 1-5.

7 While s. 30 is headed "Cost Recovery", this section is limited to the costs for energy resource supply contracts, costs to administer those contracts, and contracted payments for procured energy.

(2) Ratepayers Bear all the Risks under this Proposal

The proposal shifts four distinct risks to NSPI customers:

1. Approval risk. The IESO-NS's 2025/26 revenue requirement remains under review, and the 2026/27 revenue requirement may further change depending on that decision.[8] Intervenors and the Board's consultant, Doane Grant Thornton, have already identified deficiencies in the evidence supporting the requested amounts in the 2025/2026 revenue requirement.[9] Under the requested approach, customers would pre-fund costs before knowing what the Board may ultimately deem reasonable or recoverable from ratepayers.

2. Forecasting and scope risk. The IESO-NS acknowledges "considerable work" is needed to define Phase II and that additional costs may emerge beyond those anticipated.[10] Ratepayers would be required to finance evolving and uncertain expenditures that even the IESO-NS cannot yet quantify or verify with accuracy.[11]

3. Timing and carrying-cost risk. The FAM is in a deficit position; as of year-end 2025, ratepayers owe $101.6 million.[12] Delays in resetting the base cost of fuel in the GRA and the AA/BA rider will only add to that balance. Adding the proposed Monthly Assessment to the FAM will increase the regulatory asset amount, accruing carrying costs at NSPI's WACC. Ratepayers will bear financing costs that are otherwise avoidable, directly increasing customer bills.

4. Ratepayers are deprived of a prudence review. The IESO-NS asks the Board to deem the monthly payments a "prudent cost of NSPI" and permit immediate FAM recording and recovery.[13] That approach effectively seeks pre-approval without the evidentiary record typically required to test prudence. Although the IESO-NS notes that any overpayment by NSPI would eventually be reconciled through a future permanent fee-recovery mechanism,[14] that assurance lacks substance. The IESO-NS does not address the interim carrying costs borne by customers, and the recovery mechanism remains entirely conceptual, as no proposal has been made or tested. The request further deprives ratepayers of necessary protection mechanisms, including spending caps or controls, and independent oversight of expenditures. Granting FAM recovery would bypass established prudence review processes and expose ratepayers to unnecessary financial risk.

Importantly, none of these risks are controlled by customers. They arise from IESO-NS's start-up timing, the statutory schedule, and the evolving implementation phases.

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8 N-1 (i), IESO-NS 2026-2027 Revenue Requirement, Exhibit A-1, page 2.

9 See: Matter M12412, IESO-NS 2025/2026 Revenue Requirement, N-10, Evidence of DGT, pages 3 and 31.

10 N-1 (i), IESO-NS 2026-2027 Revenue Requirement, Exhibit A-1, page 5 and pages 9-10; and Exhibit B-3, page 33.

11 N-1 (i), IESO-NS 2026-2027 Revenue Requirement, Exhibit B-3, page 34.

12 FAM December 2025 Monthly Report.

13 N-1 (i), IESO-NS 2026-2027 Revenue Requirement, Exhibit D-1, page 41.

14 N-1 (i), IESO-NS 2026-2027 Revenue Requirement, Exhibit D-1, page 42.

The issue of cost recovery from ratepayers has been an open question since the creation of the IESO-NS and remains unresolved. The IESO-NS's cash-flow shortfall was entirely predictable. This is an issue that could have, and should have, been addressed at an early stage, and certainly well before the exhaustion of a $10 million line of credit. Despite early questions from intervenors regarding cost recovery, no adequate plan was developed or proposed. No solution has been offered, and no feasible alternatives to NSPI advances, recovered through the FAM, have been offered. The resulting delays raise legitimate concerns both about timeliness and the escalating costs associated with the IESO-NS's failure to implement a workable cost-recovery framework.

While ratepayers will inevitably be required to fund the IESO-NS revenue requirement, the amounts must be approved by the Board along with the mechanism for recovery. Bridge financing is different: it covers cash-flow gaps and timing misalignments before the Board determines what costs are properly recoverable. Funding the revenue requirement in the long run does not justify compelling customers to pre-fund costs now through a mechanism that strips away prospective scrutiny and adds carrying costs.

(3) The $950,000 Monthly Assessment has not been justified

The IESO-NS has failed to provide adequate justification or evidentiary support for the proposed $950,000 monthly assessment. It is also unclear what the total payment will be including "any applicable taxes".

The Application provides a blanket assertion that IESO-NS projects that it will become unable to meet its liabilities as they become due in May 2026, and explains that following an internal review of current and projected utilization of the Provincial line of credit, together with general forecasting of upcoming liabilities, IESO-NS has determined that a minimum of $950,000 revenue is needed each month.[15] The Affidavit from Mr. McFeters, the Director of Finance, provides limited additional information and simply states that he accessed IESO-NS's banking statements, budget detail, spending data, accounts payable, payroll records, departmental spending forecasts, and credit facility records, and that based on his analysis, he projected IESO-NS's inability to meet its liabilities as of May 2026.[16] No documentary evidence has been produced to support or explain that conclusion. The underlying financial records that Mr. McFeters reviewed have not been provided to the Board or intervenors.

Based on the information currently known, the revenue requirement ending March 31, 2026, was projected as a total of $5.31 million recoverable from ratepayers (plus $2.68 million being provincially funded), and for 2026/2027, the total is projected as $14.85 million. Cumulatively for both fiscal years, $20.16 million is expected to be recovered from ratepayers. Also in 2026/2027, the IESO-NS assumes the full Provincial $10 million facility will be drawn down, at an interest rate of prime plus 0.5%.[17]

Considering these figures, it is unclear why IESO-NS will be unable to pay its liabilities as of May 2026, using the $10 million line of credit. The monthly assessment of $950,000 over the proposed 14-month period totals $13.3 million. With the $10 million line of credit fully drawn, the IESO-NS

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15 N-1 (i), IESO-NS 2026-2027 Revenue Requirement, Exhibit D-1, page 40.

16 N-1 (i), IESO-NS 2026-2027 Revenue Requirement, Appendix A – Affidavit of M. McFeters.

17 N-1 (i), IESO-NS 2026-2027 Revenue Requirement, Exhibit B-2, page 27.

would have access to $23.3 million, i.e., more than its applied-for revenue requirements of $20.16 million for both fiscal years. This discrepancy suggests the $950,000 monthly figure is either inflated, or the revenue requirements are materially understated.

There is no explanation or backup whatsoever, regarding how the $950,000 monthly figure was calculated. The Application provides no breakdown of monthly expenses, no cash flow projections showing timing of receipts and disbursements, no explanation regarding when certain liabilities become due, and no sensitivity analyses.

Further, there is no explanation why payments are sought retroactively to February 1, 2026, when IESO-NS projects inability to meet liabilities only in May 2026, and the 2025/2026 revenue requirement is significantly lower than 2026/2027. With the $10 million line of credit being drawn down entirely through the next fiscal period, and May 2026 being only 3.5 months after the application was filed, it is unclear how the IESO-NS expects to exhaust remaining credit within 3.5 months of filing.

Intervenors and the Board cannot assess the need for $950,000 monthly payments given the lack of detail provided in the current application and cannot properly assess prudence without the underlying financial records Mr. McFeters states he reviewed. Indeed, the IESO-NS may be able to prioritize essential expenses over discretionary ones to reduce monthly liabilities or account for the phased nature of their implementation to avoid unnecessary carrying costs.

The Industrial Group submits that in addition to the problematic approach to use the FAM as a financing source, the Monthly Assessment value of $950,000 should not be approved given the lack of detail provided.

(4) Alternatives to FAM-Based Bridge Financing

Better alternatives exist that would protect ratepayers and maintain appropriate risk allocation and regulatory frameworks. The IESO-NS has presented the Board with a single option, with limited support.

The Application states that IESO-NS approached both commercial lenders and the Province for financing, but commercial lenders declined assistance absent approved revenue. The Industrial Group would note that there has been no documentary evidence filed confirming that the IESO-NS has made an exhaustive effort, and its funding request has been rejected by all possible commercial lenders.

IESO-NS states that the Province has provided a $10 million line of credit. The Province has explicit statutory authority, under s. 27 of the *MAEA*, to provide additional financing but has chosen not to do so. The decision to limit financial support to $10 million may reflect a provincial policy choice about the appropriate level of interim financial support but the result is that IESO-NS is shifting the implications of that policy choice to ratepayers through the FAM.

The Industrial Group suggests the following alternatives as possible solutions to address gaps in IESO-NS's financing that more appropriately respect cost causation, preserve regulatory sequencing, and avoid unnecessary rate impacts:

1. Additional Provincial Financing. The Province has explicit statutory authority to provide additional financing under s. 27 of the *More Access to Energy Act*. The Province created

the IESO-NS, appointed its Board, and controls its mandate. It is more appropriate for the Province to provide bridge financing, if so needed, than to pass this obligation to ratepayers through the FAM. While this Board does not control the actions of the Province, if the current request for a Monthly Assessment is denied, this is a reasonable option to be pursued by the IESO-NS.

2. Phased Fee Implementation with Provincial Guarantee. If the Province is unwilling to provide additional funds, it could instead provide a guarantee for IESO-NS obligations while the Board conducts a thorough review of revenue requirements and establishes a proper fee structure establishing a revenue stream for the IESO-NS.

3. Expenditure pacing / prioritization. IESO-NS's evidence acknowledges that Phase II is not fully scoped and that some projects have not yet been competitively bid and remain estimated.[18] The Board can require IESO-NS to pace discretionary workstreams (particularly those tied to unscoped Phase II elements) until revenue approval and fee recovery mechanisms are in place. The IESO-NS could prioritize essential functions and reduce discretionary expenses to match available financing until permanent fees are approved.

Each of these options ensures proper regulatory oversight of expenses charged to ratepayers and ensures proper separation of costs as between IESO-NS OM&A expenses and NSPI fuel costs.

In short, the Board should require the IESO-NS to evaluate and pursue appropriate alternatives that both maintain regulatory integrity and protect ratepayers, while still addressing legitimate financing needs.

Conclusion

The Industrial Group respectfully requests that the Board:

1. Reject the IESO-NS's request for interim approval of the requested Monthly Assessment through the FAM retroactive to February 1, 2026 (or at all, based on the current record);

2. Direct IESO-NS to consider and pursue alternative means of obtaining bridge financing until the final fee recovery mechanism is approved by the Board; and

3. Direct IESO-NS to file the proposed recovery fee mechanism application by no later than April 30, 2026.

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[18] N-1 (i), IESO-NS 2026-2027 Revenue Requirement, Exhibit B-3, page 34.

Thank you for the opportunity to submit these comments.

Yours truly,

Nancy G. Rubin

Brianne Rudderham

BER/NGR/lmc

cc Participants