File No: SM002557-00247

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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

Upon review of the Responses to Undertakings filed by the IESO-NS Friday, July 10, 2026, the Industrial Group respectfully objects to the claim for confidential treatment over Undertaking U-8 - the CEO Objectives.

IESO-NS has classified U-8 as "Personal Compensation Information". However, the "Personal Compensation Information" justification is inapplicable to U-8, which contains the objectives used to determine the CEO's eligibility for bonuses, and the public interest requires its disclosure on the public record.

U-8 Does Not Constitute "Personal Compensation Information"

IESO-NS's sole justification for the confidential treatment of U-8 is that it falls within the category of "Personal Compensation Information", on the basis that "[g]ood human resource practices and applicable privacy legislation require IESO Nova Scotia to protect certain confidential personnel information and documentation from disclosure" and that "[i]nformation relating to salaries, either individually or in aggregate, that can identify an employee's salary is confidential."

The fact that performance objectives may be used in determining bonus eligibility does not transform the objectives themselves into compensation information. The Board must assess the actual contents of the record in question.

The content of U-8 is not salary data, remuneration figures, or any information capable of identifying what the CEO is paid. Rather, U-8 sets out five institutional and strategic objectives for the CEO together with the desired outcomes and specific measures associated with each objective. These are organizational performance targets, not personal financial particulars. No individually identifiable compensation data appear anywhere in U-8.

Legal Framework

The Board has consistently held that confidential treatment is the exception, not the rule, and that the burden rests solely on the party claiming it. Rule 12(1) of the Board Regulatory Rules establishes that all documents filed in respect of an application shall be placed on the public record, and Rule 12(3) confirms the burden placed on the party seeking confidential treatment.

In Matter M10431 (the NSPI 2022 GRA proceeding), the Board directly considered the tension between privacy interests and the public interest in scrutinizing how executive compensation is structured within a regulated entity. In that decision, the Board held that ratepayers have an interest in knowing whether a utility's executive team is appropriately compensated and properly incented to act in the best interests of ratepayers, and that unless the relevant compensation information is released, ratepayers have no way of ascertaining for themselves that the overall executive compensation is justified. In that case, the Board was considering whether records should be designated "Board Confidential" or "General Confidential." Nonetheless, the approach taken in that decision is relevant to the treatment of U-8. The public ought to have access to information that does not reveal personal details but is used to determine the objectives of the executive team of a Utility.

More recently, in Matter M12691 (Eastward Energy GRA 2027-2029), the Board specifically cited the reasoning in M10431 and asked Eastward Energy to explain why the same rationale should not apply to executive compensation information sought to be kept "Board Only Confidential". While again, the Board was considering the proposed “Board Confidential” treatment of the records, these decisions overall reflect a clear and consistent principle that blanket confidentiality over executive compensation-related materials filed in a regulatory proceeding should not be sustained.

The performance objectives governing the CEO's eligibility for incentive compensation are directly relevant to whether the costs sought to be recovered in this proceeding are prudently incurred and whether IESO-NS is structured to deliver value for ratepayers. Keeping that framework confidential would leave the public record incomplete. The public should be able to evaluate whether the CEO's compensation incentives are properly aligned with the public interest, which was the concern the Board identified in M10431.

Public disclosure of U-8 would not cause any serious risk of harm. IESO-NS has not identified any specific harm that would result from disclosure of U-8, nor has it explained how the information contained in U-8 fits within the confidentiality category relied upon. The mere assertion that the document relates to CEO bonus eligibility does not satisfy the burden imposed by Rule 12(3).

Conclusion

Executive incentive structures directly influence management behaviour and organizational priorities. Where compensation costs are recovered from ratepayers, transparency regarding the objectives grounding incentive compensation is important for assessing whether management incentives are aligned with the interests of ratepayers. U-8 has been characterized as compensation information, but it is actually a statement of corporate performance objectives.

The Industrial Group respectfully requests that the Board reject IESO-NS's claim for confidential treatment of U-8 and order that U-8 be placed on the public record in its entirety.

Yours truly,

Nancy G. Rubin, K.C.

Brianne Rudderham

BER/NGR/cj

cc All Participants